No. 18-525

IN THE
Supreme Court of the United States

FORT BEND COUNTY,
Petitioner,

v.

LOIS M. DAVIS,
Respondent.

On Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit

JOINT APPENDIX

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PETITION FOR WRIT OF CERTIORARI FILED: OCTOBER 18, 2018
CERTIORARI GRANTED: JANUARY 11, 2019

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UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Docket No. 16-20640

LOIS M. DAVIS,

Plaintiff-Appellant,

v.

FORT BEND COUNTY,

Defendant-Appellee.

DOCKET ENTRIES

DATE	PROCEEDINGS
09/26/2016	CIVIL RIGHTS CASE docketed. NOA filed by Appellant Ms. Lois M. Davis [16-20640] (RLL) [Entered: 09/26/2016 09:57 AM]
	* * *
12/28/2016	SUFFICIENT APPELLANT'S BRIEF FILED Sufficient Brief deadline satisfied. Paper Copies of Brief due on 01/17/2017 for appellant Lois M. Davis. [16-20640]
	REVIEWED AND/OR EDITED – The original text prior to review appeared as follows: APPELLANT'S BRIEF FILED Additionally the Brief requires

DATE	PROCEEDINGS
	Statement of the Issues needs to be double spaced. Instructions to Attorney: PLEASE READ THE ATTACHED NOTICE FOR INSTRUCTIONS ON HOW TO REMEDY THE DEFAULT. # of Copies Provided: 0 A/Pet's Brief deadline satisfied. Sufficient Brief due on 01/20/2017 for Appellant Lois M. Davis. Appellee's Brief due on 01/27/2017 for appellee Fort Bend County [16-20640] REVIEWED AND/OR EDITED - The original text prior to review appeared as follows: APPELLANT'S BRIEF FILED by Ms. Lois M. Davis. Date of service: 12/28/2016 via email - Attorney for Appellants: Hollenbeck, Melkonian; Attorney for Appellees: Morse, Reveles [16-20640] (Raffi Melkonian) [Entered: 12/28/2016 06:55 PM]
12/28/2016	RECORD EXCERPTS FILED. # of Copies Provided: 0 Paper Copies of Record Excerpts due on 01/11/2017 for Appellant Lois M. Davis. [16-20640] REVIEWED AND/OR EDITED – The original text prior to review appeared as follows: RECORD EXCERPTS FILED by Appellant Ms. Lois M. Davis. Date of service: 12/28/2016 via email – Attorney for Appellants:

DATE	PROCEEDINGS
	Hollenbeck, Melknoian; Attorney for Appellees: Morse, Reveles [16-20640] (Raffi Melkonian) [Entered: 12/28/2016 06:57 PM]
	* * *
01/27/2017	SUFFICIENT APPELLEE'S BRIEF FILED # of Copies Provided: 0 Sufficient Brief deadline satisfied. Paper Copies of Brief due on 02/07/2017 for Appellee Fort Bend County. [16-20640] REVIEWED AND/OR EDITED - The original text prior to review appeared as follows: APPELLEE'S BRIEF FILED Brief NOT Sufficient as the caption on the cover of the brief does not match the caption of the case, the certificate of service is not dated or signed, and the preliminary notes must be double spaced. Instructions to Attorney: PLEASE READ THE ATTACHED NOTICE FOR INSTRUCTIONS ON HOW TO REMEDY THE DEFAULT. # of Copies Provided: 0 E/Res's Brief deadline satisfied. Sufficient Brief due on 02/13/2017 for Appellee Fort Bend County. Reply Brief due on 02/10/2017 for Appellant Lois M. Davis [16-20640] REVIEWED AND/OR EDITED - The original text prior to review appeared as follows: APPELLEE'S BRIEF

DATE	PROCEEDINGS
	FILED by Fort Bend County. Date of service: 01/27/2017 via email - Attorney for Appellants: Hollenbeck, Melkonian; Attorney for Appellees: Morse, Reveles [16-20640] (Randall Weaver Morse) [Entered: 01/27/201707:38PM]
	* * *
02/27/2017	APPELLANT'S REPLY BRIEF FILED Reply Brief deadline satisfied. Paper Copies of Brief due on 03/07/2017 for Appellant Lois M. Davis. [16-20640] REVIEWED AND/OR EDITED - The original text prior to review appeared as follows: APPELLANT'S REPLY BRIEF FILED by Ms. Lois M. Davis. Date of service: 02/27/2017 via email - Attorney for Appellants: Hollenbeck, Melkonian; Attorney for Appellees: Morse, Reveles [16-20640] (Raffi Melkonian) [Entered: 02/27/2017 06:17PM]
	* * *

DATE	PROCEEDINGS
10/11/2017	SUPPLEMENTAL AUTHORITIES (FRAP 28j) FILED by Appellant Ms. Lois M. Davis Date of Service: 10/11/2017 via email - Attorney for Appellants: Hollenbeck, Melkonian; Attorney for Appellee: Morse [16-20640] (Raffi Melkonian) [Entered: 10/11/2017 04:02 PM]
10/13/2017	ORAL ARGUMENT HEARD before Judges King, Jones, Elrod. Arguing Person Information Updated for: Raffi Melkonian arguing for Appellant Lois M. Davis; Arguing Person Information Updated for: Randall Weaver Morse arguing for Appellee Fort Bend County [16-20640] (PFT) [Entered: 10/13/2017 10:42 AM]
06/20/2018	PUBLISHED OPINION FILED. [16-20640 Reversed and Remanded] Judge: CDK, Judge: EHJ, Judge: JWE. Mandate issue date is 07/12/2018 [16-20640] (EAB) [Entered: 06/20/2018 09:29AM]
06/20/2018	JUDGMENT ENTERED AND FILED. [16-20640] (EAB) [Entered: 06/20/2018 09:35 AM]

* * *

DATE	PROCEEDINGS
07/05/2018	PETITION for rehearing en banc [8817384-2] Mandate issue date canceled. Paper Copies of Rehearing due on 07/10/2018 for Appellee Fort Bend County. Date of Service: 07/05/2018 [16-20640] REVIEWED AND/OR EDITED - The original text prior to review appeared as follows: PETITION filed by Appellee Fort Bend County for rehearing en banc [8817384-2]. Date of Service: 07/05/2018 via email - Attorney for Appellants: Hollenbeck, Melkonian; Attorney for Appellees: Morse, Reveles [16-20640] (Randall Weaver Morse) [Entered: 07/05/2018 01:17PM]
	* * *
07/20/2018	COURT ORDER denying Petition for rehearing en banc filed by Appellee Fort Bend County [8817384-2]. Without Poll. Mandate issue date is 07/30/2018 [16-20640] (CAG) [Entered: 07/20/2018 08:58AM]
07/30/2018	MANDATE ISSUED. Mandate issue date satisfied. [16-20640] (SBS) [Entered: 07/30/2018 08:10 AM]
	* * *

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

Docket No. 4:12-cv-00131

LOIS M. DAVIS,

Plaintiff,

v.

FORT BEND COUNTY,

Defendant.

DOCKET ENTRIES

DATE	DOCKET NUMBER	PROCEEDINGS
01/13/2012	1	COMPLAINT against Fort Bend County (Filing fee $ 350 receipt number 0541-9115678) filed by Lois M Davis. (Attachments: # 1 Civil Cover Sheet) (Scott, Darryl) (Entered: 01/13/2012)
		* * *

DATE	DOCKET NUMBER	PROCEEDINGS
03/01/2012	6	ANSWER to 1 Complaint with Jury Demand by Fort Bend County, filed. (Reveles, Mary) (Entered: 03/01/2012)
		* * *
01/29/2013	11	First MOTION for Summary Judgment by Fort Bend County, filed. Motion Docket Date 2/19/2013. (Attachments: # 1 Exhibit Dept Org Chart, # 2 Exhibit Newspaper article, # 3 Exhibit Excepts from Pl. Dep., # 4 Affidavit Matere, # 5 Affidavit Webb, # 6 Exhibit Pl. Emp. App., # 7 Proposed Order Proposed Order Granting MSJ) (Reveles, Mary) (Entered: 01/29/2013)

DATE	DOCKET NUMBER	PROCEEDINGS
02/18/2013	12	First RESPONSE to 11 First MOTION for Summary Judgment filed by Lois M Davis. (Attachments: # 1 Proposed Order Plaintiff Proposed Order, # 2 Exhibit exhibit A_Deposition, # 3 Exhibit exhibit B_HR Letter to TWCCD, # 4 Exhibit exhibit C_Letter restricting access, # 5 Exhibit exhibit D_Novosad email, # 6 Exhibit exhibit E_JC move email, # 7 Exhibit exhibit F_Ford affidavit, # 8 Exhibit exhibit G_Mistry Affidavit, # 9 Exhibit Exhibit H_Joseph affidavit, # 10 Exhibit Exhibit I_ Complaint and Right to Sue, # 11 Exhibit exhibit J_ Sexual Harass Inv, # 12 Exhibit exhibit K_ Letter of resignation, # 13 Exhibit exhibit L_Webb Affidavit, # 14 Exhibit exhibit

DATE	DOCKET NUMBER	PROCEEDINGS
		M_Materre affidavit, # 15 Exhibit exhibit N_Defendant response to interrogatories, # 16 Exhibit exhibit O_Kadiri Affidavit, # 17 Exhibit exhibit P_Leveque Affidavit, # 18 Exhibit exhibit Q_TWCCD final decision) (Scott, Darryl) (Entered: 02/18/2013)
02/22/2013	13	REPLY to Response to 11 First MOTION for Summary Judgment, filed by Fort Bend County. (Reveles, Mary) (Entered: 02/22/2013)
		* * *
09/11/2013	16	OPINION AND ORDER granting 11 Motion for Summary Judgment. (Signed by Judge Melinda Harmon) Parties notified. (rvazquez) (Entered: 09/12/2013)

DATE	DOCKET NUMBER	PROCEEDINGS
09/11/2013	17	FINAL JUDGMENT. Case terminated on September 11, 2013 (Signed by Judge Melinda Harmon) Parties notified. (rvazquez) (Entered: 09/12/2013)
		* * *
10/10/2013	19	NOTICE OF APPEAL to US Court of Appeals for the Fifth Circuit re: 17 Final Judgment, 16 Order on Motion for Summary Judgment by Lois M Davis (Filing fee $ 455, receipt number 0541-12193745), filed. (Scott, Darryl) (Entered: 10/10/2013)
		* * *
10/31/2014	26	Judgment of USCA re: 19 Notice of Appeal; USCA No. 13-20610. It is ordered and adjudged that the judgment of the District Court is affirmed in part and reversed in part, and the cause is remanded to the District

DATE	DOCKET NUMBER	PROCEEDINGS
		Court for further proceedings, filed. (srussell, 2) (Entered: 10/31/2014)
10/31/2014	27	Opinion of USCA re: 19 Notice of Appeal; USCA No. 13-20610, filed. (srussell, 2) (Entered: 10/31/2014)
		* * *
06/09/2015	37	The petition for a writ of certiorari filed with the Supreme Court has been denied (USCA No. 13-20610) (USSC No. 14-847), filed. (avleal, 1) (Entered: 06/09/2015)
		* * *
09/16/2015	39	First AMENDED COMPLAINT with Jury Demand against Fort Bend County filed by Lois M Davis. Related document: 1 Complaint filed by Lois M Davis. (Melkonian, Raffi) (Entered: 09/16/2015)

DATE	DOCKET NUMBER	PROCEEDINGS
10/06/2015	40	ANSWER to 39 Amended Complaint/Counterclaim/ Crossclaim etc. with Jury Demand by Fort Bend County, filed. (Morse, Randall) (Entered: 10/06/2015)
		* * *
02/26/2016	42	MOTION to Dismiss by Fort Bend County, filed. Motion Docket Date 3/18/2016. (Attachments: # 1 Proposed Order) (Hedges, Kevin) (Entered: 02/26/2016)
		* * *
04/01/2016	49	RESPONSE in Opposition to 42 MOTION to Dismiss, filed by Lois M Davis. (Attachments: # 1 Exhibit, # 2 Exhibit) (Melkonian, Raffi) (Entered: 04/01/2016)
		* * *

DATE	DOCKET NUMBER	PROCEEDINGS
04/12/2016	53	REPLY to Response to 42 MOTION to Dismiss, filed by Fort Bend County. (Morse, Randall) (Entered: 04/12/2016)
		* * *
08/24/2016	59	ORDER AND OPINION re: 42 MOTION to Dismiss. Defendants Motion to Dismiss is GRANTED and Plaintiffs claim of religious discrimination is DISMISSED with prejudice. (Signed by Judge Melinda Harmon) Parties notified. (jdav, 4) (Entered: 08/25/2016)
08/24/2016	60	FINAL ORDER OF DISMISSAL (Signed by Judge Melinda Harmon) Parties notified. (jdav, 4) (Entered: 08/25/2016)

DATE	DOCKET NUMBER	PROCEEDINGS
09/23/2016	61	NOTICE OF APPEAL to US Court of Appeals for the Fifth Circuit re: 60 Final Judgment, 59 Order by Lois M Davis (Filing fee $ 505, receipt number 0541-17279752), filed. (Melkonian, Raffi) (Entered: 09/23/2016)
		* * *

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CIVIL ACTION 4:12-cv-00131

JURY DEMANDED

LOIS DAVIS,

Plaintiff,

vs.

FORT BEND COUNTY,

Defendant.

Filed: Jan. 13, 2012

PLAINTIFF, LOIS DAVIS', ORIGINAL COMPLAINT AND JURY DEMAND

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES Lois Davis, hereinafter called Plaintiff, complaining of and about Fort Bend County, hereinafter called Defendant, and for cause of action shows unto the Court the following:

PARTIES AND SERVICE

1. Plaintiff Lois Davis, is a citizen of the United States and the State of Texas and resides in Harris County, Texas.

2. Defendant Fort Bend County may be served by serving its Chief Executive Officer Robert. Hebert with process at the following address: 301 Jackson Street, Richmond Texas 77469.

JURISDICTION

3. The action arises under The Civil Rights Act of 1964, Title VII § 701, 42 U.S.0 §2000e et. seq, as amended by the Civil Rights act of 1991, Title I, §§ 104, 109(a) as hereinafter more fully appears.

4. This Court has supplemental jurisdiction over state law claims discussed below under 28 U.S.C. Section 1367(a) because they arise out of the same case or controversy.

NATURE OF ACTION

5. This is an action under Title 42 U.S.C. Section 2000e et. seq. as amended by the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of retaliation for Plaintiff reporting sexual harassment and religious discrimination.

CONDITIONS PRECEDENT

6. All conditions precedent to jurisdiction have occurred or been complied with the Equal Employment Opportunity Commission. A charge of discrimination was filed with the Equal Employment Opportunity Commission within three-hundred days of the acts complained of herein and Plaintiff's Complaint is filed within ninety days of Plaintiff's

receipt of the Equal Employment Opportunity Commission's issuance of a right to sue letter.

FACTS

7. Plaintiff was first employed by Defendant on or about December 17, 2007 as a Desktop Support Supervisor until she was terminated on or about July 5, 2011.

8. Plaintiff reported directly to Mr. Charles King. However, Charles Cook, the Defendant's IT Director gave Plaintiff additional responsibilities of supervising the Telecommunications technicians, managing research projects, recommending and implementing a new web-based help desk for Defendant.

9. On or about November 2009, Defendant and Charles Cook hired Kenneth Ford as Plaintiff's new manager. Mr. Ford was a personal friend and fellow church member of Mr. Cook prior to his (Mr. Ford) employment with Fort Bend County. Mr. Cook was personally involved and influenced the Defendant to employ Mr. Ford. Mr. Cook and Mr. Ford remained friends and co-workers throughout Mr. Cook's employment at Fort Bend County.

10. Shortly after Plaintiff's employment began, Plaintiff was subjected to constant sexual harassment and assaults by Mr. Charles Cook. These assaults occurred repeatedly over a period of three years. Mr. Cooks' sexual advances included numerous sexual innuendos, inappropriate touching and inappropriate comments of a sexual nature. Those sexual advances and comments included:

a. **In 2008:** Mr. Cook approached Plaintiff while she was in a meeting with a co-worker and

stated to the co-worker, "She has two pair." The co-worker responded, "What two pair?" Mr. Cook replied "spray on jeans." Mr. Cook then walked away.

b. During a meeting, Plaintiff replied to a comment and stated, "I understand, I'm not a little girl." Mr. Cook responded by looking at Plaintiff's buttocks and stating, "No, you are not."

c. During a meeting, Mr. Cook stated "he likes dark chocolate, like the Plaintiff."

d. While standing in Mr. Cook's office, Plaintiff unconsciously adjusted a latch on her skirt and Mr. Cook made the comment, "no thanks, I've already eaten."

e. **In 2009:** During a meeting, Mr. Cook blew a kiss at Plaintiff.

f. During an informal conversation between co-workers, Plaintiff made the comment, "Mr. Cook used to wear a pocket-protector." Mr. Cook responded, "yeah, but she didn't wear a training bra." He also made reference to Plaintiff's buttocks.

g. Plaintiff pulled a grey hair out of her head. Mr. Cook, made the comment, "Don't worry about the gray, unless it's hanging from you thong."

h. After Plaintiff completed her conversation on her blackberry phone, she tried to place the phone in her pocket. Mr. Cook made the comment, "it won't fit, your butt is too big."

i. During a staff meeting, Mr. Cook inappropriately touched the Plaintiff's leg twice.

11. Plaintiff repeatedly asked Mr. Cook to stop, however the inappropriate sexual advances and physical touching did not cease. The vulgarity of the sexual advances increased. Therefore, Plaintiff sought professional counseling and filed a sexual harassment complaint against Mr. Cook on or about April 1, 2010 with Defendant's Human Resources Department. Plaintiff was placed on Family Medical Leave (FMLA) with pay during the investigation. After a meeting with Defendant's management, which included Mr. Ford, Mr. Cook subsequently resigned from Defendant on or about April 22, 2010.

12. On or about May 12, 2010, Plaintiff met with Kenneth Ford and Human Resources to advise them of her intent to return to work. As soon as Plaintiff returned to work, Mr. Ford immediately began retaliating against Plaintiff for filing the complaint for sexual harassment against his friend and colleague, Mr. Cook. Mr. Ford intentionally reduced Plaintiff's responsibilities without explanation. Prior to the sexual harassment complaint, Plaintiff initiated, designed and managed the procurement and implementation of a new Help Desk System. After Plaintiff's return from FMLA and therapy she was removed from the project and Plaintiff's administrative rights[1] were removed.

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[1] Each employee involved with the new Help Desk System is given certain network and computer access to the system. Plaintiff originally had full access to the system. Plaintiff had the right modify, add or delete parameters on the electronic

13. On or about May 21, 2010, Mr. Ford called Plaintiff into his office to reprimand her. Mr. Ford reprimanded Plaintiff for taking an extended lunch break even though Plaintiff took her break at her desk the majority of the time. Mr. Ford is aware that Plaintiff was an exempt employee and he was reminded by Human resources that exempt employees do not have a lunch break policy.

14. Mr. Ford continued to make Plaintiff's work environment hostile. Mr. Ford requested Plaintiff to meet with him every morning for thirty (30) minutes to discuss ongoing projects. This request was not given to any other supervisor. Mr. Ford also superseded Plaintiff's authority by giving direct orders, assigning different projects and tasks to Plaintiff's staff. Mr. Ford malice and retaliation tactics against Plaintiff caused discord and conflict amongst the IT employees including Plaintiff's personal staff.

15. On or about September 21, 2010, Mr. Ford called Plaintiff into his office to give Plaintiff a written warning for failure to complete an assigned task. However, this task was never assigned to Plaintiff. Mr. Ford knew this task was not assigned to Plaintiff; however he continued to reprimand her. Plaintiff contacted Mr. Ford's supervisor and Human Resources about the incident. After Plaintiff complained to Human Resources, the reprimand was removed from her file.

16. On or about March 2011, Defendant began the process of managing the installment of personal

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system. However, that ability to work on the system was removed prior to her return.

computers (PCs), network components and audio visual equipment into the newly built Fort Bend County Justice Center. All technical support employees were involved with the process. Plaintiff worked for several months on the project. Plaintiff worked more than sixty hours a week. Plaintiff also worked six days a week (without overtime or comp-time)[2] and often on weekends. Plaintiff was not compensated for her comp-time hours despite the fact she was an exempt employee, but was deducted time if she left early due to sickness or family emergencies.

17. On or about April 8, 2011 Kenneth Ford forwarded an email message to all employees that the weekend of July 4, 2011 was a mandatory period for all employees to be present. Kenneth Ford intentionally excluded Plaintiff from that email message.

18. However, on or about June 28, 2011, Plaintiff gave Mr. Ford notice that she would be unavailable for work on Sunday July 3, 2011 due to a previous religious commitment. Plaintiff's Pastor requested that all members participate in this highly anticipated community service event. Plaintiff had specific duties assigned to her for this event. Plaintiff was in charge of the volunteer program that was responsible for feeding over three hundred (300) people. Plaintiff's church depended on her to be there. As a result, Plaintiff made reasonable

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[2] Fort Bend County Policy allows exempt employees to gain comp-time when their hours exceed forty hours (40) or more a week. Comp-time is usually used by employees in lieu of using earned vacation time or sick time.

accommodations for Fort Bend County by having one of her staff members cover her shift. Mr. Ford intentionally and knowingly waited until July 1, 2011 to respond to Plaintiff's request. Mr. Ford informed Plaintiff that if she were absent that day, that would be grounds for a write-up or termination. Mr. Ford intentionally placed Plaintiff in a position whereby she had to choose between her religious commitment and her employment. Plaintiff chose her religious commitment.

19. On or about July 3, 2011 Defendant removed Plaintiff's access to the building and network system. Defendant did not contact Plaintiff of their actions. Plaintiff reported to work on July 4th, but was denied access to her account.

RESPONDEAT SUPERIOR AND RATIFICATION

20. Whenever in this complaint it is alleged that the Defendant, Fort Bend County, did any act or thing, it is meant that the Defendant's officers, agents, servants, employees or representatives did such act and/or that at that time such act was done, it was done with the full authorization or ratification of the Defendant or was done in the normal and routine course and scope of employment of Defendant's officers, agents, servants, employees, or representatives.

RELIGIOUS DISCRIMINATION

21. Defendant, Fort Bend County, by and through Defendant's agents, intentionally engaged in unlawful employment practices involving Plaintiff because she is a devoted Christian.

22. Defendant, Fort Bend County, by and through Defendant's agents, discriminated against Plaintiff in connection with the compensation, terms, conditions and privileges of employment in violation of 42 U.S.C. Section 2000e (2)(a). The effect of these practices has been to deprive Plaintiff of equal employment opportunities and otherwise adversely affect her status as an employee because of her religion.

23. The unlawful employment practices of Defendant, Fort Bend County by and through Defendant's agents, had a disparate and adverse impact on Plaintiff because of her religious observance, practice, or belief.

24. Plaintiff alleges that Defendant, Fort Bend County by and through Defendant's agents, discriminated against Plaintiff on the basis of religion with malice or with reckless indifference to the protected rights of Plaintiff.

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS BY FORT BEND COUNTY

25. Fort Bend County intentionally and recklessly cause Plaintiff to suffer physical and emotional damage. Defendant was aware of its Agent's ongoing sexual harassment and retaliation acts against Plaintiff. Defendant remedied the situation by wrongfully terminating Plaintiff based on religion. Defendant's conduct was extreme and outrageous and proximately caused Plaintiff severe emotional distress. Plaintiff suffered damages for which Plaintiff herein sues.

RETALIATION BY FORT BEND COUNTY

26. Plaintiff alleges that Fort Bend County instituted a campaign of retaliation which included:

* demoting and removing Plaintiff from projects she managed,
* intentionally reprimanding Plaintiff for acts she did not commit,
* docking her pay, even though she is an exempt employee,
* requiring her perform task that no other manager in her position were required to perform

This retaliation was and is due to Plaintiff exercising her rights by reporting sexual assault charges to human resources. Plaintiff suffered damages for which Plaintiff herein sues.

DAMAGES

27. Plaintiff sustained the following damages as a result of the actions and/or omissions of Defendant described hereinabove:

a. All reasonable and necessary Attorney's fees incurred by or on behalf of Plaintiff,
b. All reasonable and necessary costs incurred in pursuit of this suit,
c. Emotional pain,
d. Expert fees as the Court deems appropriate,
e. Front pay in an amount the Court deems equitable and just to make Plaintiff whole,
f. Mental anguish,
g. Humiliation,

h. Physical discomfort

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff, Lois Davis, respectfully pray that the Defendant be cited to appear and answer herein, and that upon a final hearing of the cause, judgment be entered for the Plaintiff against Defendant for damages in an amount within the jurisdictional limits of the Court; exemplary damages together with interest as allowed by law; costs of court; and such other and further relief to which the Plaintiff may be entitled at law or in equity.

Respectfully Submitted.

/s/ Darryl E. Scott
DARRYL E. SCOTT
Attorney for Petitioner
State Bar No.: 24075045
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/s/ Jessica R. Alexander
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PLAINTIFF HEREBY DEMANDS TRIAL BY JURY

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CIVIL ACTION 4:12-CV-00131

DEFENDANT DEMANDS A JURY

LOIS M. DAVIS,

Plaintiff,

v.

FORT BEND COUNTY,

Defendant.

Filed: Mar. 1, 2012

DEFENDANT, FORT BEND COUNTY'S, ORIGINAL ANSWER AND RESPONSE TO ALLEGATIONS

TO THE HONORABLE JUDGE OF SAID COURT:

Come now FORT BEND COUNTY, TEXAS, Defendant herein, hereby makes and files its Original Answer, made in response to the various allegations as set forth in Plaintiff's Original Complaint [Docket No. 1] and would respectfully show the following:

First Defense

The complaint fails to state a claim upon which relief can be granted.

Second Defense

FORT BEND COUNTY, TEXAS, as a political subdivision of the State of Texas, is entitled to and does hereby invoke sovereign governmental immunity and/or statutory exemptions, exclusions, and exceptions from liability, and limitations on liability.

Third Defense

Any disciplinary actions directed at Plaintiff were the result of unsatisfactory job performance.

Fourth Defense

The Plaintiff's discharge from her employment was not the result of any discriminatory intent, nor was it the result of any discriminatory effect, but rather was due to the legitimate interests of Fort Bend County.

Fifth Defense

In regard to the punitive damages sought by Plaintiff, if any, the Defendant may not be held liable for punitive damages.

Sixth Defense

The Defendant has not committed any willful violation of law.

Seventh Defense

The Plaintiff has failed to mitigate her damages, if any, sustained herein.

I.

ANSWER TO PLAINTIFF'S ALLEGATIONS

Subject to the above and foregoing Defenses, without waiving same but instead expressly insisting thereon, the Defendant answers the various allegations made by the Plaintiff as follows:

Answers to Plaintiff's Allegations in the Original Complaint

1. Plaintiff's Paragraph 3: The Defendant admits that jurisdiction may be invoked under 42 USC 2000e et. seq; however; Defendant contends that Plaintiff can neither plead nor prove any facts which would establish any valid federal, constitutional, and/or civil rights claim for relief against Defendant.

2. Plaintiff's Paragraph 4: The Defendant admits that jurisdiction may be invoked under 28 USC 1367(a); however; Defendants contend that Plaintiff can neither plead nor prove any facts which would establish any valid state, federal, constitutional, and/or civil rights claim for relief against Defendants. Subject to the above and foregoing, and without waiving same but instead expressly insisting thereon, Defendant maintains that Plaintiff has failed to comply with Section 89.004 of the Texas Local Government Code, entitled "Presentation of Claim." Section 89.004 of the Texas Local Government Code provides that:

(a) Except as provided by Subsection (c), a person *may not file suit* on a claim against a county or an elected or appointed county official in the official's capacity as an appointed or elected official unless the person has presented the claim to the

commissioners court and the commissioners court neglects or refuses to pay all or part of the claim *before the 60th day after the date of the presentation of the claim*.

(b) If the plaintiff in a suit against a county does not recover more than the commissioners court offered to pay on presentation of the claim, the plaintiff shall pay the costs of the suit.

(c) A person may file a suit for injunctive relief against a county. After the court's ruling on the application for temporary injunctive relief, any portion of the suit that seeks monetary damages *shall be abated until* the claim is presented to the commissioners court and the commissioners court neglects or refuses to pay all or part of the claim by *the 60th day after the date of the presentation of the claim*. V.T.C.A., Local Government Code § 89.004 (emphasis added).

Plaintiff has failed to comply with V.T.C.A., Local Government Code § 89.004, and thus is barred from any relief under state law.

3. Plaintiff's Paragraph 5: No responsive pleading is required as to the alleged nature of any claim asserted as being made by the Plaintiff in her lawsuit. In the alternative, Defendant denies that Plaintiff is entitled to any relief sought under the claims asserted as being made in this lawsuit. Specifically, Defendant denies that the Plaintiff is entitled to any relief as a result of any alleged discriminatory employment practice.

4. Plaintiff's Paragraph 6: The Defendant does not have sufficient knowledge or information, after reasonable inquiry, to admit or deny whether the

Plaintiff has compiled with the conditions precedent to jurisdiction in this matter; Defendant admits that Plaintiff filed a charge of discrimination with the Equal Employment Opportunity Commission.

5. Plaintiff's Paragraph 7: Defendant admits that the Plaintiff was employed on or about December 17, 2007, but denies that Plaintiff was hired as a "Desktop Support Supervisor." Defendant admits Plaintiff was terminated on or about July 5, 2011.

6. Plaintiff's Paragraph 8: Defendant admits Plaintiff reported to Charles King. Defendant is without sufficient knowledge or information, after reasonable inquiry, to admit or deny the remaining allegations in this paragraph.

7. Plaintiff's Paragraph 9: Defendant admits Defendant hired Kenneth Ford on or about November 2009. Defendant admits Kenneth Ford and Charles Cook attended the same church. Defendant denies the remaining allegations of this paragraph.

8. Plaintiff's Paragraph 10: Defendant is without sufficient knowledge or information, after reasonable inquiry, to admit or deny the allegations contained in this paragraph.

9. Plaintiff's Paragraph 10(a): Defendant is without sufficient knowledge or information, after reasonable inquiry, to admit or deny the allegations contained in this paragraph.

10. Plaintiff's Paragraph 10(b): Defendant is without sufficient knowledge or information, after reasonable inquiry, to admit or deny the allegations contained in this paragraph.

11. Plaintiff's Paragraph 10(c): Defendant is without sufficient knowledge or information, after reasonable inquiry, to admit or deny the allegations contained in this paragraph.

12. Plaintiff's Paragraph 10(d): Defendant is without sufficient knowledge or information, after reasonable inquiry, to admit or deny the allegations contained in this paragraph.

13. Plaintiff's Paragraph 10(e): Defendant is without sufficient knowledge or information, after reasonable inquiry, to admit or deny the allegations contained in this paragraph.

14. Plaintiff's Paragraph 10(f): Defendant is without sufficient knowledge or information, after reasonable inquiry, to admit or deny the allegations contained in this paragraph.

15. Plaintiff's Paragraph 10(g): Defendant is without sufficient knowledge or information, after reasonable inquiry, to admit or deny the allegations contained in this paragraph.

16. Plaintiff's Paragraph 10(h): Defendant is without sufficient knowledge or information, after reasonable inquiry, to admit or deny the allegations contained in this paragraph.

17. Plaintiff's Paragraph 10(i): Defendant is without sufficient knowledge or information, after reasonable inquiry, to admit or deny the allegations contained in this paragraph.

18. Plaintiff's Paragraph 11: Defendant is without sufficient knowledge or information, after reasonable inquiry, to admit or deny the allegations contained in the first and second sentence in this

paragraph. Defendant admits Plaintiff filed a complaint against Mr. Cook on or about April 1, 2010. Defendant admits Plaintiff was placed on paid leave pending an investigation of the allegations against Mr. Cook. Defendant admits Mr. Cook resigned from employment with Defendant on or about April 22, 2010. Defendant denies Mr. Kenneth Ford participated in any meetings regarding the allegations against Mr. Cook.

19. Defendant's Paragraph 12: Defendant admits the first sentence in this paragraph. Defendant denies the allegations contained in the second, third and fourth sentence in this paragraph. Defendant admits the last sentence of this sentence.

20. Defendant's Paragraph 13: Defendant admits the first and second sentence in this paragraph. Defendant denies the remainder of this paragraph.

21. Defendant's Paragraph 14: Defendant denies the first and fifth (last) sentence in this paragraph. Defendant admits the second, third and fourth sentence in this paragraph.

22. Defendant's Paragraph 15: Defendant admits the first and third sentence in this paragraph. Defendant denies the second and third sentence in this paragraph. Defendant admits the fourth sentence in this paragraph. Defendant denies the fifth (last) sentence in this paragraph.

23. Defendant's Paragraph 16: Defendant admits the first, second and third sentence in this paragraph. Defendant is without sufficient knowledge or information, after reasonable inquiry, to admit or deny remaining sentences in this paragraph.

24. Defendant's Paragraph 17: Defendant admits the first sentence of this paragraph. Defendant denies the second sentence of this paragraph.

25. Defendant's Paragraph 18: Defendant admits the first, eighth and tenth sentence of this paragraph. Defendant is without sufficient knowledge or information, after reasonable inquiry, to admit or deny the second, third, fourth, fifth, sixth sentence contained in this paragraph. Defendant denies the seventh and ninth sentence contained in this paragraph.

26. Defendant's Paragraph 19: Defendant admits the first and second sentence of this paragraph. Defendant is without sufficient knowledge or information, after reasonable inquiry, to admit or deny the last sentence contained in this paragraph.

27. Defendant's Paragraph 20: Defendant is unable to admit or deny the allegations contained in this paragraph for the reason that same are vague and ambiguous. Alternatively, Defendants incorporate by reference herein its responses made to Plaintiff's Paragraphs 3-20, including all subparagraphs, if any, respectively.

28. Defendant's Paragraph 21: Defendant denies the allegations contained in this paragraph.

29. Defendant's Paragraph 22: Defendant denies the allegations contained in this paragraph.

30. Defendant's Paragraph 23: Defendant denies the allegations contained in this paragraph.

31. Defendant's Paragraph 24: Defendant denies the allegations contained in this paragraph.

32. Defendant's Paragraph 25: Defendant denies the allegations contained in this paragraph.

33. Defendant's Paragraph 26: Defendant denies the allegations contained in this paragraph.

34. Defendant's Paragraph 27: Defendant denies that Plaintiff is entitled to any relief sought in this paragraph and all subparagraphs.

35. Final paragraph (not numbered by Plaintiff): Defendant denies that Plaintiff is entitled to any of the relief required in her prayer paragraph, and the Defendant denies that Plaintiff is entitled to any relief.

WHEREFORE, PREMISES CONSIDERED, Defendant respectfully prays that any and all relief demanded in Plaintiff's Original Complaint [Docket No. 1] be in all respects denied, with all costs assessed against Plaintiff, and for such other and further relief to which Defendant may be entitled.

Respectfully submitted,

ROY L. CORDES, Jr.
Fort Bend County Attorney

By: */s/ Mary E. Reveles*
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ATTORNEY FOR FORT BEND COUNTY

CERTIFICATE OF SERVICE

I hereby certify (1) that the above instrument is being filed electronically, with confirmation to be received that the Electronic Court Filing ("ECF") system has registered such transaction, and with a listing of all attorneys who have received notice of electronic filing of the above instrument, and (2) that the above instrument is being sent by certified mail, return receipt requested, to all known counsel of record, or parties appearing *pro se*, who are not listed as having received such notice of electronic filing of the above instrument; and that both such actions are being done on this, the 1st day of March, 2012.

/s/ Mary E. Reveles
Mary E. Reveles,
First Assistant County Attorney

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CIVIL ACTION 4:12-CV-131

JURY TRIAL DEMANDED

LOIS M. DAVIS

v.

FORT BEND COUNTY

Filed: Sept. 16, 2015

PLAINTIFF'S FIRST AMENDED COMPLAINT AND JURY DEMAND

NOW COMES Lois Davis, hereinafter called Plaintiff, complaining of and about Fort Bend County, hereinafter called Defendant, and for cause of action shows unto the Court the following:

PARTIES AND SERVICE

1. Plaintiff Lois M. Davis, is a citizen of the United States and the State of Texas and resides in Harris County, Texas.

2. Defendant Fort Bend County may be served by serving its Chief Executive Officer with process at the following address: 301 Jackson Street, Richmond Texas 77469.

JURISDICTION

3. This Court has federal question jurisdiction because the action arises under the Civil Rights Act of 1964, Title VII § 701, 42 U.S.C § 2000e, et. seq, as amended by the Civil Rights act of 1991, Title I, §§ 104, 109(a).

NATURE OF ACTION

4. This is a religious discrimination case arising under Title VII. The district court previously granted summary judgment to Fort Bend County on all of Ms. Davis's claims. That decision was reversed, in part, by the United States Court of Appeals for the Fifth Circuit. *See Davis v. Fort Bend County*, 765 F.3d 480 (5th Cir. 2014). This Amended Complaint conforms the active pleadings in this case to those remanded by the decision of the Fifth Circuit. Specifically, Ms. Davis hereby abandons those claims that the Fifth Circuit found were not properly pleaded—specifically, her claims for Intentional Infliction of Emotional Distress under Texas law and Retaliation under Title VII, and she reasserts her remaining claims for religious discrimination under Title 42 U.S.C. § 2000e *et. seq*.

CONDITIONS PRECEDENT

5. All conditions precedent to jurisdiction have occurred or have been complied with in the Equal Employment Opportunity Commission (EEOC). A charge of discrimination was filed with the EEOC within three hundred days of the acts complained of herein and Plaintiff's Original Complaint was filed within ninety days of Plaintiff's receipt of the EEOC's issuance of a right to sue letter.

FACTS

6. Fort Bend County hired Lois M. Davis in December 2007 as a Desktop Support Supervisor responsible for supervising about fifteen information technology ("IT") technicians. Charles Cook was Fort Bend's IT Director at the time.

7. On or about November 2009, Defendant and Cook hired Kenneth Ford as Plaintiff's new manager. Ford was a personal friend and fellow church member of Cook prior to his employment with Fort Bend County. Cook was personally involved and influenced the Defendant to employ Ford. Cook and Ford remained friends and co-workers throughout Cook's employment at Fort Bend County.

Cook sexually harasses Ms. Davis throughout 2008 and 2009.

8. Cook began to sexually harass Ms. Davis almost immediately after she began work at Fort Bend. This harassment occurred repeatedly over a period of three years. Cook's sexual advances included numerous sexual innuendos, inappropriate touching, and inappropriate comments of a sexual nature. Those sexual advances and comments included the following:

a. **In 2008:** Mr. Cook approached Plaintiff while she was in a meeting with a co-worker and stated to the co-worker, "She has two pair." The co-worker responded, "What two pair?" Mr. Cook replied "spray on jeans." Mr. Cook then walked away.

b. During a meeting, Plaintiff replied to a comment and stated, "Understand, I'm not a little girl." Mr. Cook responded by looking at

Plaintiff's buttocks and stating, "No, you are not.

c. During a meeting, Mr. Cook stated he "likes dark chocolate, like [the Plaintiff]."

d. While standing in Mr. Cook's office, Plaintiff unconsciously adjusted a latch on her skirt and Mr. Cook made the comment, "No thanks, I've already eaten."

e. **In 2009:** During a meeting, Mr. Cook blew a kiss at Plaintiff.

f. During an informal conversation between co-workers, Plaintiff made the comment, "Mr. Cook used to wear a pocket-protector," Mr. Cook responded, "Yeah, but she didn't wear a training bra." He also made reference to Plaintiff's buttocks.

g. Plaintiff pulled a grey hair out of her head. Mr. Cook, made the comment, "Don't worry about the gray, unless it's hanging from your thong."

h. After Plaintiff completed a conversation on her mobile telephone, she tried to place the phone in her pocket. Mr. Cook made the comment, "It won't fit, your butt is too big."

i. During a staff meeting, Mr. Cook inappropriately touched the Plaintiff's leg twice.

9. Ms. Davis repeatedly asked Cook to stop. However the inappropriate sexual advances, comments, and physical touching did not cease. The vulgarity of the sexual advances increased until

Ms. Davis was no longer able or willing to tolerate Cook's attacks.

Ms. Davis complains about the sexual harassment by Cook. Cook is investigated and resigns.

10. On or about April 1, 2010, Davis filed a complaint with Fort Bend County's Human Resources Department, alleging that Cook subjected her to constant sexual harassment and assaults soon after her employment began. Fort Bend County placed Davis on Family Medical Leave Act ("FMLA") leave during its investigation of her complaint. The investigation substantiated Davis's allegations against Cook and ultimately led to Cook's resignation on April 22, 2010.

11. Kenneth Ford was Ms. Davis's supervisor after Cook's resignation.

Ms. Davis returns to work and is retaliated against by Ford.

12. On or about May 12, 2010, Plaintiff met with Kenneth Ford and Human Resources and advised them of her intent to return to work. After Ms. Davis returned to work, Ford immediately began retaliating against her for having caused the termination of his friend, Cook. Ford effectively demoted Plaintiff by reducing the number of her direct reports from fifteen to four; removed her from projects she had previously managed; superseded her authority by giving orders and assigning different projects and tasks directly to Davis's staff; removed her administrative rights from the computer server; and assigned her tasks that other similarly situated employees were not required to perform.

13. For example, on or about May 21, 2010, Ford called Ms. Davis into his office to reprimand her. Ford reprimanded Ms. Davis for taking an extended lunch break even though she took her break at her desk the majority of the time. Ford was aware that Ms. Davis was an exempt employee and he was reminded by Human Resources that exempt employees do not have a lunch break policy.

14. Additionally, Ford required Ms. Davis to meet with him every morning for thirty minutes to discuss ongoing projects. This demand was not made of any other supervisor. Ford also superseded Ms. Davis's authority by giving direct orders to, and assigning different projects and tasks to her staff. Ford's retaliation tactics against Ms. Davis caused discord and conflict amongst the IT employees including, Ms. Davis's personal staff.

15. Moreover, on or about September 21, 2010, Ford called Ms. Davis into his office to give her a written warning for failing to complete an assigned task. However, the task at issue was never assigned to Ms. Davis. Moreover, Ford knew this task was not assigned to Ms. Davis, but nonetheless insisted on reprimanding her. Ms. Davis contacted Ford's supervisor and Human Resources about the incident. After Ms. Davis complained to Human Resources, the reprimand was removed from her file.

16. Ford intentionally reduced Ms. Davis's responsibilities without explanation. Prior to the sexual harassment complaint, for instance, Ms. Davis had initiated, designed, and managed the procurement and implementation of a new Help Desk System. After her return from FMLA and

therapy, she was removed from the project and all of her administrative rights[1] were removed.

Ms. Davis seeks a religious accommodation for a few hours on Sunday, July 3, 2011, and is terminated for practicing her religion.

17. Ms. Davis is a devout Christian. She is an active member of the Church Without Walls, a thriving Christian community in the Houston area. Ms. Davis expresses her religious beliefs, in part, by attending services at the Church. Ms. Davis attends both the 8:00 am and 10:00 am church services at the Church Without Walls every Sunday. In addition, Ms. Davis attends Tuesday night Bible studies, and is involved in many other religious activities affiliated with the Church. For example, Ms. Davis has an important role in Church administration. All of those actions are directly motivated and required by Ms. Davis's personal religious faith.

18. In March 2011, Fort Bend told its staff that it was embarking on a major project to install personal computers, network components, and audiovisual equipment into the newly built Fort Bend County Justice Center. The Justice Center was ultimately scheduled to open on July 4, 2011, which was a Monday.

19. Davis worked tirelessly on the Justice Center project beginning in March 2011. Ms. Davis worked

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[1] Each employee involved with the new Help Desk System was given network and computer access to the system. Plaintiff originally had full access to the system, and could modify, add, or delete parameters on the electronic system. However, the ability to work on that system was removed prior to her return, on Ford's directive.

more than sixty hours a week, including up to six days a week (without overtime or comp-time),[2] often on weekends and well into many evenings. Ms. Davis was not compensated for her comp-time hours, despite the fact that she was an exempt employee, but was deducted time if she left early due to sickness or family emergencies. Ms. Davis attended church throughout this time of intense work. No representative of Fort Bend County stated at any time that she (or any other employee) would be punished if she took a few hours off to fulfill her religious obligations.

20. In June 2011, Ford informed his staff that they would be required to be available to work during the weekend July 2-3, 2011. On June 28, 2011, Ms. Davis informed Ford that she would not be available to work the morning of Sunday, July 3, 2011 due to a religious obligation at her church. This obligation consisted not only of a church service, which Ms. Davis was required to attend under her understanding of her religious faith, but also included a special service about which Ms. Davis felt a special religious obligation to attend. July 3, 2011 was the date her church had planned the groundbreaking of a new church building and a meal served to the community to celebrate that solemn occasion, in addition to a traditional church service. Ms. Davis made clear to Fort Bend County that she would arrange for a substitute to take on her job

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[2] Fort Bend County's policies permit exempt employees to accrue comp-time when their hours exceed forty (40) or more per week. Comp-time may be used by employees for time off, in lieu of using their accrued vacation time or sick time.

responsibilities during her absence that day, as she normally did in similar circumstances.

21. Ford initially indicated to Ms. Davis that she could attend the July 3rd church service. However, Ford later changed course and told Ms. Davis that she would be disciplined if she fulfilled her religious obligations rather than coming to work the morning of July 3rd. Ford told Ms. Davis that her offers to find a substitute and to return to work immediately after the service was completed were inadequate, and that she would face discipline no matter what alternatives she gave to Ford. As a result, Ford intentionally placed Ms. Davis in a position forcing her to choose between her religious beliefs, obligations, and commitment on the one hand, and her employment on the other. Ms. Davis chose to honor her personal religious beliefs and commitment.

22. Ms. Davis did not go to work on July 3, 2011. True to Ford's threats, Ms. Davis was terminated from employment with Fort Bend County immediately as a result. Ms. Davis's computer access and access to her workplace were disabled on Sunday. She was subsequently "officially" terminated on July 6, 2011.

23. The Fort Bend County Justice Center opened on time and without incident on Monday, July 4, 2011. In fact, Fort Bend County's employees were dismissed early on Sunday, July 3rd because they were not needed to complete any remaining work.

RESPONDEAT SUPERIOR AND RATIFICATION

24. Whenever in this complaint it is alleged that the Defendant, Fort Bend County, did any act or

thing, it is meant that the Defendant's officers, agents, servants, employees or representatives did such act and that, at that time such act was done, it was done with the full authorization or ratification of the Defendant or was done in the normal and routine course and scope of employment of Defendant's officers, agents, servants, employees, or representatives.

RELIGIOUS DISCRIMINATION

25. Ms. Davis hereby re-alleges paragraphs 1-24 of this Amended Complaint.

26. Ms. Davis possessed a sincere religious belief that she was obligated to attend church, by her own personal view of her religious faith, on July 3, 2011.

27. On June 28, 2011, Ms. Davis told Ford about her religious obligation and need to attend the church service, and made clear that this need was motivated and required by her religious faith. Specifically, Ms. Davis stated that she was required to attend a special church service on that date at which her congregation would break ground on a new church and feed the community. At that time, neither Ford, nor any other representative of Fort Bend County, disputed the sincerity of Ms. Davis's religious beliefs, or dispute that her request was motivated by religion.

28. Ms. Davis told Ford that her church service was likely only going to take a few hours, and that she was willing to return to work that Sunday immediately after the church service in order to continue her work. Ms. Davis also arranged for a replacement during her absence, Ms. JoAnn Cosbey.

29. Although Ford initially gave Ms. Davis his approval—Ford gave her a "thumb's up" sign and told Ms. Davis that she had "really stepped up"—he ultimately rejected Ms. Davis's request for a few hours off to attend the church service. Ford offered no accommodation for Ms. Davis's request, and he rejected her proposal that she come to work immediately after the church service.

30. Ford told Ms. Davis that she should not come to work at all on July 3rd if she did not report to work first thing that morning, and Ford told her that she would be subject to discipline if she did not did so.

31. Ford gave no specific reason why Ms. Davis's request for accommodation was denied, despite the fact that other employees had been given time off for personal, non-religious, reasons (such as to attend a July 4th parade).

32. When Ms. Davis chose to attend church rather than report to work the morning of July 3rd, Ford immediately acted to terminate her employment by cutting off her access to the Fort Bend County campus and by terminating her e-mail account. She was later "officially" terminated on July 6, 2011.

33. The Fort Bend County Justice Center opened on time and without incident on July 4, 2011. Fort Bend County suffered no hardship by Ms. Davis's absence, much less any "undue" hardship; nor would it have suffered any hardship had it simply accommodated Ms. Davis's request for several hours off from work.

34. Defendant, Fort Bend County, by and through Defendant's agents, intentionally engaged in

unlawful employment practices involving Plaintiff because she is a devoted Christian. Fort Bend's decision to terminate Ms. Davis, in addition to being a violation of Title VII, was consistent with the campaign of retaliation undertaken by Fort Bend against Ms. Davis from the time she returned from FMLA leave.

35. Defendant, Fort Bend County, by and through Defendant's agents, discriminated against Plaintiff in connection with the compensation, terms, conditions, and privileges of her employment in violation of 42 U.S.C. § 2000e (2)(a). The effect of these practices has been to deprive Plaintiff of equal employment opportunities and otherwise adversely affect her status as an employee because of her religion.

36. The unlawful employment practices of Defendant, Fort Bend County by and through Defendant's agents, had a disparate and adverse impact on Plaintiff because of her religious observances, practices, or beliefs.

37. Plaintiff alleges that Defendant, Fort Bend County by and through Defendant's agents, discriminated against Plaintiff on the basis of religion with malice or with reckless indifference to the protected rights of Plaintiff.

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS BY FORT BEND COUNTY (ABANDONED)

38. Fort Bend County intentionally and recklessly caused Plaintiff to suffer physical and emotional damage. Defendant was aware of its Agent's ongoing sexual harassment and retaliation acts against

Plaintiff. Defendant remedied the situation by wrongfully terminating Plaintiff based on religion. Defendant's conduct was extreme and outrageous and proximately caused Plaintiff severe emotional distress. Plaintiff suffered damages for which Plaintiff herein sues.

39. Davis is no longer pursuing this Count of the original Complaint, pursuant to the Fifth Circuit's opinion in *Davis v. Fort Bend*, 765 F.3d 480 (5th Cir. 2014).

RETALIATION BY FORT BEND COUNTY (ABANDONED)

40. Plaintiff alleges that Fort Bend County instituted a campaign of retaliation which included:

* demoting and removing Plaintiff from projects she managed,
* intentionally reprimanding Plaintiff for acts she did not commit,
* docking her pay, even though she is an exempt employee,
* requiring her perform task that no other manager in her position were required to perform

This retaliation was and is due to Plaintiff exercising her rights by reporting sexual assault charges to human resources. Plaintiff suffered damages for which Plaintiff herein sues.

41. Davis is no longer pursuing this Count of the original Complaint, pursuant to the Fifth Circuit's opinion in *Davis v. Fort Bend*, 765 F.3d 480 (5th Cir. 2014).

DAMAGES

42. Plaintiff has sustained and will continue to sustain the following damages as a direct result of the actions and or omissions of Defendant described hereinabove:

a. Front pay and back pay in an amount deemed equitable and just to make Plaintiff whole;

b. Mental anguish, emotional pain, and humiliation;

c. Physical discomfort;

d. Exemplary damages;

e. All reasonable and necessary attorney's fees incurred by or on behalf of Plaintiff;

f. All reasonable and necessary costs incurred in pursuit of this suit, including expert witness fees;

g. Taxable court costs, and pre- and post-judgment interest;

h. All other damages to which Ms. Davis may be entitled.

JURY DEMAND

Plaintiff hereby demands a trial by jury.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff, Lois Davis, respectfully prays that the Defendant be cited to appear and answer herein, and that upon a final hearing of the cause, judgment be entered for the Plaintiff against Defendant for damages in an amount within the jurisdictional limits of the Court, together with interest as allowed

by law and costs of court. Plaintiff further requests any and all such other relief to which the Plaintiff may be entitled at law or in equity.

Dated: September 16, 2015

Respectfully submitted,
WRIGHT & CLOSE LLP

By: */s/ Raffi Melkonian*
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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CIVIL ACTION 4:12-CV-131

JURY TRIAL DEMANDED

LOIS M. DAVIS,

Plaintiff,

v.

FORT BEND COUNTY, TEXAS

Defendant.

Filed: Oct. 6, 2015

DEFENDANT'S ANSWER TO PLAINTIFF'S FIRST AMENDED COMPLAINT

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now FORT BEND COUNTY, TEXAS (the "County"), Defendant herein, and hereby makes and files its answer, made in response to the allegations set forth in the Plaintiff's First Amended Complaint, as follows:

First Defense

Plaintiff's first amended complaint fails to state a claim upon which relief can be granted.

Second Defense

Defendant denies that all conditions precedent to the Plaintiff's suit have occurred and been performed. Specifically, unlike her *previously dismissed* claims that she had suffered from (1) gender discrimination and (2) retaliation, as to her claim of religious discrimination, Plaintiff Lois Davis neither filed any Charge of Discrimination

with the EEOC, nor did she receive from the EEOC any Dismissal of Charge and Notice of Rights to Sue.

Third Defense

Plaintiff's First Amended Complaint alleges (at Paragraph 5) that:

> All conditions precedent to jurisdiction have occurred or have been complied with in the Equal Employment Opportunity Commission (EEOC). A charge of discrimination was filed with the EEOC within three hundred days of the acts complained of herein and Plaintiff's Original Complaint was filed within ninety days of Plaintiff's receipt of the EEOC' s issuance of a right to sue letter.

While this recital on jurisdiction is accurate as to Plaintiff's claims of (1) gender discrimination and (2) retaliation, it is not true as to Plaintiff's claim of religious discrimination, and thus the Court has no jurisdiction to grant relief on this remaining claim.

Fourth Defense

Plaintiff has failed to exhaust administrative remedies as required prior to the filing of this lawsuit, as to her claim of religious discrimination.

Fifth Defense

Plaintiff's claim of religious discrimination is barred by limitations.

Sixth Defense

As to any claim of religious discrimination, the Plaintiff has been required and/or allowed to amend her pleadings in order to fairly state her claim, if any, for any failure to accommodate her alleged religious belief, practice, or observance (if any) that

allegedly conflicted with her work requirements. Plaintiff has failed to specify any alleged religious belief, practice, or observance that would have conflicted with her work requirements.

Seventh Defense

To any extent that the Plaintiff has alleged any religious belief, practice, or observance that allegedly would have conflicted with her work requirements on July 3, 2011, the Defendant offered to provide a reasonable accommodation to Plaintiff on such occasion, which offer was unreasonably refused by the Plaintiff.

Eighth Defense

To any extent that the Plaintiff has alleged any religious belief, practice, or observance that allegedly would have conflicted with her work requirements on July 3, 2011, and for which the Defendant failed to provide an accommodation requested by the Plaintiff on such occasion, any such requested accommodation was unreasonable.

Ninth Defense

To any extent that the Plaintiff has alleged any religious belief, practice, or observance that allegedly would have conflicted with her work requirements on July 3, 2011, and for which the Defendant failed to provide an accommodation requested by the Plaintiff on such occasion, any such requested accommodation could not have been provided to Plaintiff on such occasion without causing an undue hardship to the County (Defendant).

Tenth Defense

Defendant, Fort Bend County, Texas, as a political subdivision of the State of Texas, is entitled to and does hereby invoke sovereign governmental immunity and/or statutory exemptions, exclusions, and exceptions from liability, and limitations on liability.

Eleventh Defense

Plaintiff was discharged from her employment for legitimate and non-discriminatory departmental business reasons which were not related in any way to any religious discrimination.

Plaintiff's discharge from her employment was not the result of any discriminatory intent, nor was it the result of any discriminatory effect, but rather was due to the legitimate interests of Fort Bend County.

Twelfth Defense

In regard to any punitive or exemplary damages sought by Plaintiff, the Defendant County may not be held liable for punitive or exemplary damages.

Thirteenth Defense

Defendant has not committed any willful violation of law.

Fourteenth Defense

Plaintiff has failed to mitigate her damages, if any, sustained herein.

Answers to Plaintiff's Allegations

Subject to the above and foregoing Defenses, without waiving same but instead expressly insisting thereon, the Defendant (Fort Bend County) answers the allegations made by the Plaintiff as follows:

1. Defendant admits the allegations contained in Paragraph 1.

2. Defendant admits the allegations contained in Paragraph 2, except that any service on the County's Chief Executive Officer (the County Judge) would be at 401 Jackson Street.

3. Defendant admits that federal question and/or civil rights jurisdiction may be invoked under 42 U.S.C. § 2000e, *et seq.*; however, Defendant contends that Plaintiff can neither plead nor prove any specific facts which would establish any valid federal, constitutional, or civil rights claim for relief against Defendant. Additionally, Defendant denies that the Court has jurisdiction to grant relief on Plaintiff's claim of religious discrimination.

4. Defendant admits that the district court previously granted summary judgment to the County on all of Ms. Davis's claims; that this decision was affirmed in part and reversed in part by the United States Court of Appeals for the Fifth Circuit. Defendant denies that Plaintiff has accurately stated everything that was found by the Fifth Circuit, but admits that the Opinion speaks for itself. See: *Davis v. Fort Bend County*, 765 F.3d 480 (5th Cir. 2014). Defendant denies any remaining factual allegations contained in Paragraph 4.

5. Defendant denies that all conditions precedent to the Plaintiff's suit have occurred and been performed. Specifically, unlike her *previously dismissed* claims that she had suffered from (1) gender discrimination and (2) retaliation, as to her claim of religious discrimination, Plaintiff Lois Davis neither filed any Charge of Discrimination

with the EEOC, nor did she receive from the EEOC any Dismissal of Charge and Notice of Rights to Sue. The second sentence of Paragraph 5 states that:

> A charge of discrimination was filed with the EEOC within three hundred days of the acts complained of herein and Plaintiff's Original Complaint was filed within ninety days of Plaintiff's receipt of the EEOC' s issuance of a right to sue letter.

While this recital on jurisdiction is admitted as to Plaintiff's claims of (1) gender discrimination and (2) retaliation, it is denied as to Plaintiff's claim of religious discrimination, and thus the Court has no jurisdiction to grant relief on this remaining claim.

6. Defendant admits the allegations contained in Paragraph 6, except that Defendant denies that Plaintiff was hired as a "Desktop Support Supervisor" responsible for supervising about fifteen information technology ("IT") technicians in December 2007.

7. Defendant admits that the County hired Kenneth Ford in or about November 2009, and Defendant admits that Kenneth Ford and Charles Cook attended the same church. Defendant denies the remaining allegations contained in Paragraph 7.

8. Defendant is without sufficient knowledge or information, after reasonable inquiry, to admit or deny the allegations contained in Paragraph 8.

9. Defendant is without sufficient knowledge or information, after reasonable inquiry, to admit or deny the allegations contained in Paragraph 9.

10. Defendant admits that Plaintiff filed a complaint with its Human Resources Department against Mr. Cook on or about April 1, 2010. Defendant admits that Plaintiff was placed on paid leave pending an investigation of the allegations against Mr. Cook. Defendant further admits that Mr. Cook resigned from employment with the County on or about April 22, 2010. Defendant is unable to admit or deny the remaining allegations contained in Paragraph 10, for the reasons that the same are expressed in terms that are vague, ambiguous, multifarious, and potentially misleading; alternatively, Defendant is without sufficient knowledge or information, after reasonable inquiry, to admit or deny the remaining allegations contained in Paragraph 10.

11. Defendant admits the allegations contained in Paragraph 11.

12. Defendant admits the allegations contained in the first sentence of Paragraph 12. Defendant denies the remaining allegations contained in Paragraph 12.

13. Defendant is without sufficient knowledge or information, after reasonable inquiry, to admit or deny the allegations contained in Paragraph 13.

14. Defendant is unable to admit or deny the allegations contained in the first, second, and third sentences of Paragraph 14, for the reasons that the same are expressed in terms that are vague, ambiguous, multifarious, and potentially misleading. Defendant denies the allegations contained in the fourth (last) sentence of Paragraph 14.

15. Defendant admits the allegations contained in the first sentence of Paragraph 15. Defendant denies the allegations contained in the second and third sentences of Paragraph 15. Defendant admits the allegations contained in the fourth sentence of Paragraph 15. Defendant denies the allegations contained in the fifth (last) sentence of Paragraph 15.

16. Defendant denies the allegations made in the first and second sentences of Paragraph 16. The Defendant is unable to admit or deny the allegations contained in the third sentence of Paragraph 16, for the reasons that the same are expressed in terms that are vague, ambiguous, multifarious, and potentially misleading.

17. Defendant is without sufficient knowledge or information, after reasonable inquiry, to admit or deny the allegations contained in Paragraph 17, except Defendant denies the allegations contained in the last sentence of Paragraph 17.

18. Defendant admits the allegations contained in the first sentence of Paragraph 18. Defendant admits that the Justice Center was ultimately scheduled to open on July 5, 2011 (Monday, July 4, 2011, was a holiday).

19. Defendant is without sufficient knowledge or information, after reasonable inquiry, to admit or deny the allegations made in Paragraph 19.

20. Defendant admits that in June 2011, Mr. Ford informed and/or had informed his staff that they would be required to be available to work during the holiday weekend of July 2-4, 2011 (Monday, July 4, 2011,was a holiday); however, Defendant denies that June 2011 was the first time when Mr. Ford's staff

(including Plaintiff) were informed that they would be required to be available to work during the holiday weekend of July 2-4, 2011; more specifically, in or before early April 2011, all of Mr. Ford's staff (including Plaintiff) were made aware that the holiday weekend of July 4, 2011, would be a mandatory period for all employees to be present. Defendant admits that on or after June 28, 2011, Davis informed Ford (for the first time) that she would not be available to work (1) during the morning of Sunday, July 3, 2011 and (2) thereafter until after the conclusion of her community service event (meal service for the groundbreaking) at her church; however, Defendant denies any remaining allegations contained in the second and third sentences of Paragraph 20. Defendant is without sufficient knowledge or information, after reasonable inquiry, to admit or deny the allegations made in the fourth sentence of Paragraph 20. Defendant denies that Ms. Davis could have "made clear to Fort Bend County" that she would arrange for a substitute to take on her job responsibilities during her absence on July 3, 2011, for the reasons that (1) her absence on July 3, 2011 had not been authorized, (2) even in her absence the Plaintiff was neither authorized to arrange for, nor responsible for arranging, a substitute to take on her job responsibilities on July 3, 2011, (3) the Plaintiff's proposed "substitute" was a non-supervisor and a subordinate who was not sufficiently qualified to take on the supervisory job responsibilities of Ms. Davis on July 3, 2011, (4) the extraordinary events of July 3, 2011 — as included within Fort Bend County's move to its new Justice Center — were not something that the County

"normally did," and thus (5) any prior substitutes authorized to be used for handling Ms. Davis's routine job responsibilities were not done "in similar circumstances."

21. Defendant admits that Mr. Ford told Ms. Davis that her offers to find her own substitute and to return to work only after all activities at her church had been completed were inadequate; that Mr. Ford informed Ms. Davis that, if she were absent that day (July 3, 2011), it would be grounds for a write-up and discipline, including possible termination; and that Ms. Davis completely chose to attend fully all of the activities at her church, and not to attend any of her employment duties at those times on that day (July 3, 2011). Defendant denies any remaining allegations contained in Paragraph 21.

22. Defendant admits the allegations contained in Paragraph 22, except wherein Mr. Ford's until fair warnings are mis-characterized as "Ford's threats."

23. Defendant admits that the Fort Bend County Justice Center opened on time on Tuesday, July 5, 2011. Defendant admits that many of Fort Bend County's employees were dismissed early on Sunday, July 3, 2011, because all those workers who were needed to work that Sunday attended (despite the holiday weekend), they successfully completed their work in a timely and efficient manner, and they did not encounter major and unexpected problems or difficulties. Defendant denies any remaining allegations contained in Paragraph 23. More specifically, the Defendant denies that all Fort Bend County employees were dismissed early on Sunday,

July 3, and Defendant denies that no Fort Bend County employees were needed to complete any remaining work. Defendant further denies that the Fort Bend County Justice Center opened without incident on Monday, July 4, 2011. Finally, the Defendant denies any suggestion or implication that the absence of Ms. Davis, as certain Fort Bend County employees' supervisor, (on Sunday, July 3, 2011) did not impose undue hardships on the County; to the contrary, these undue hardships on the County included (but were not limited to): requiring other employees to assume a disproportionate workload, appearing to allow unequal treatment among employees, creating morale problems, impairing project coordination, decreasing efficiency, and increasing the risk of failure or delays in project completion.

24. No responsive pleading is required as to any allegations contained in Paragraph 24. Alternatively, the Defendant is unable to admit or deny the allegations contained in Paragraph 24, for the reasons that the same call for legal conclusions, and are expressed in terms that are vague, ambiguous, multifarious, and potentially misleading. In the further alternative, the Defendant incorporates by reference herein its responses made to each of Paragraphs 1-44, respectively, of Plaintiff's First Amended Complaint.

25. No responsive pleading is required as to any allegations contained in Paragraph 25. Alternatively, the Defendant incorporates by reference herein its responses made to each of Paragraphs 1-24, respectively, of Plaintiff's First Amended Complaint.

26. Defendant denies the allegations contained in Paragraph 26.

27. Defendant admits that on or after June 28, 2011, Davis informed Ford (for the first time) that she would not be available to work on Sunday, July 3, 2011 due to a personal commitment she had made to attend a community service event at her church, at which she would be needed to help in serving food to the congregation during a groundbreaking event; however, the Defendant denies any remaining allegations contained in the first and second sentences of Paragraph 27. Defendant is unable to admit or deny the allegations contained in the third sentence of Paragraph 27, for the reasons that the same assume disputed facts, and are expressed in terms that are vague, ambiguous, multifarious, and potentially misleading. More specifically, Defendant denies that Ms. Davis informed Mr. Ford or the County of any specific religious belief, practice or observance she held that conflicted with her special requirement to work on Sunday, July 3, 2011; thus, Defendant denies that there was ever any need or occasion for either Mr. Ford or the County to dispute the sincerity of Ms. Davis's religious beliefs in general, or to specifically dispute that her church activities were generally motivated by religion, regardless of whether any specific religious belief, practice or observance she held actually conflicted with her special requirement to work on Sunday, July 3, 2011.

28. Defendant denies that what Ms. Davis told Mr. Ford about her activities at her church would have reasonably indicated to him that her planned absence would have been likely to last only for a few

hours, or that any willingness by her to return to work thereafter would have been adequate to allow her to meaningfully supervise the full day's work to be performed by her subordinates. Defendant denies that Ms. Davis's arrangement for Ms. JoAnn Cosbey to act as her replacement during her absence was authorized, reasonable under the circumstances, or satisfactory for the County's needs.

29. Defendant is unable to admit or deny the allegations contained in the first sentence of Paragraph 29, for the reasons that the same assume disputed facts, and are expressed in terms that are vague, ambiguous, multifarious, and potentially misleading. More specifically, Defendant denies that Ms. Davis's request was only for a few hours off or only to attend the church service. Defendant denies the allegations contained in the second sentence of Paragraph 29.

30. Defendant denies the allegations contained in Paragraph 30.

31. Defendant denies the allegations contained in Paragraph 31.

32. Defendant is unable to admit or deny the allegations contained in the first sentence of Paragraph 32, for the reasons that the same assume disputed facts, and are expressed in terms that are vague, ambiguous, multifarious, and potentially misleading. Defendant admits the allegations contained in the second sentence of Paragraph 32.

33. Defendant denies the allegations contained in Paragraph 33.

34. Defendant denies the allegations contained in Paragraph 34.

35. Defendant denies the allegations contained in Paragraph 35.

36. Defendant denies the allegations contained in Paragraph 36.

37. Defendant denies the allegations contained in Paragraph 37.

38. Defendant denies the allegations contained in Paragraph 38.

39. No responsive pleading is required as to any allegations contained in Paragraph 39.

40. Defendant denies the allegations contained in Paragraph 40.

41. No responsive pleading is required as to any allegations contained in Paragraph 41.

42. Defendant denies the allegations contained in Paragraph 42.

43. No responsive pleading is required as to any allegations contained in the Jury Demand Paragraph.

44. Defendant denies that Plaintiff is entitled to any of the relief requested in her Prayer Paragraph, and the Defendant denies that Plaintiff is entitled to any relief.

WHEREFORE, PREMISES CONSIDERED, the Defendant respectfully prays that any and all relief sought in the Plaintiff's First Amended Complaint will be in all respects denied, with all costs assessed against Plaintiff, and for all other relief to which Defendant is entitled.

Respectfully submitted,

s/Randall W. Morse/
RANDALL W. MORSE
Assistant County Attorney
SBN: 14549700
301 Jackson Street (Mail)
401 Jackson Street (Office)
Richmond, Texas 77469
Telephone: (281) 341-4555
Facsimile: (281) 341-4557
ATTORNEY FOR DEFENDANT

JURY DEMAND

Comes now the Defendant appearing above, by and through its undersigned counsel, and hereby demands a trial by jury on all issues so triable.

s/Randall W. Morse/
RANDALL W. MORSE

CERTIFICATE OF SERVICE

I hereby certify (1) that the above instrument is being filed electronically, with confirmation to be received that the Electronic Court Filing ("ECF") system has registered such transaction, and with a listing of all attorneys who have received notice of electronic filing of the above instrument, and (2) that the above instrument is being sent by certified mail, return receipt requested, to all known counsel of record, or parties appearing *pro se*, who are not listed as having received such notice of electronic filing of the above instrument; and that both such actions are being done on this, the 6th day of October, 2015.

s/Randall W. Morse/
RANDALL W. MORSE

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CIVIL ACTION 4:12-CV-131

LOIS M DAVIS,

vs.

FORT BEND COUNTY

Filed Apr. 1, 2016

DECLARATION OF LOIS M. DAVIS

Pursuant to 28 U.S.C. §1746, Lois M. Davis declares as follows:

1. I am plaintiff in the above-captioned action.

2. This Declaration and supporting exhibits are submitted in opposition to Fort Bend County's motion to dismiss.

3. The statements contained in this Declaration are based on first-hand knowledge, information contained in documents to which reference is made, and information that has been provided to me by third-parties with first-hand knowledge.

4. I prepared an intake questionnaire for a charge with the Texas Workforce Commission on February 15, 2011. A true and correct copy of this questionnaire is attached hereto as Exhibit A.

5. I filed a formal charge with the Texas Workforce Commission ("TWC") on March 9, 2011.

That initial charge was based on the harassment and discrimination I experienced upon returning from FMLA leave after I was sexually assaulted by the Director of IT at Fort Bend County. Attached as Exhibit B is a true and correct copy of my original complaint with the TWC. The TWC charge was also formally presented to the EEOC.

6. I was terminated from employment at Fort Bend County on or about July 5, 2011, during the pendency of my EEOC and TWC investigations. I filed for unemployment benefits with the TWC on or about July 17, 2011. Attached as Exhibit C is a true and correct copy of my original request for unemployment. The investigations into my original complaint and request for unemployment appeared to have been merged by the TWC.

7. Isabel Robert, Fort Bend County Human Resources Administrative Coordinator responded to a Request for Separation Information from the TWC. The Fort Bend County response details the religious considerations and discriminating conduct of Supervisor, Kenneth Ford and others in the IT Department. Attached as Exhibit D is a true and correct copy of Fort Bend County's Response to TWC's Request for Separation Information dated August 1, 2011.

8. Various rulings were made by the TWC over the course of the next five months. I filed several appeals to the TWC rulings. In an attempt to clarify ongoing and evolving discrimination which took place during my employment and ultimate termination at Fort Bend County, I amended my TWC intake form to include religious discrimination.

9. I amended my TWC intake form to include the word "Religion" as well as marking the Employment Harms or Actions of Discharge and Reasonable Accommodation. These modifications were made to inform the TWC of the religious discrimination which occurred upon my termination. Attached as Exhibit E is a true and correct copy of the amended intake form. I presented the amended form to the TWC and the EEOC during late summer or fall of 2011, prior to November 2011.

10. The Texas Workforce Commission issued a pre-determination letter on November 11, 2011. A true and correct copy of this letter is attached hereto as Exhibit F.

The Texas Workforce Commission issued a dismissal and notice of right to file a civil action on November 17, 2011. A true and correct copy of my TWC right to file a civil action letter is attached hereto as Exhibit G.

11. The EEOC issued a right to sue letter on December 11, 2011. A true and correct copy of my EEOC right to file a civil action letter is attached hereto as Exhibit H.

EXECUTED this 1st day of April, 2016.

Lois M. Davis
LOIS M. DAVIS

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CIVIL ACTION 4:12-CV-131

JURY TRIAL DEMANDED

LOIS M. DAVIS,

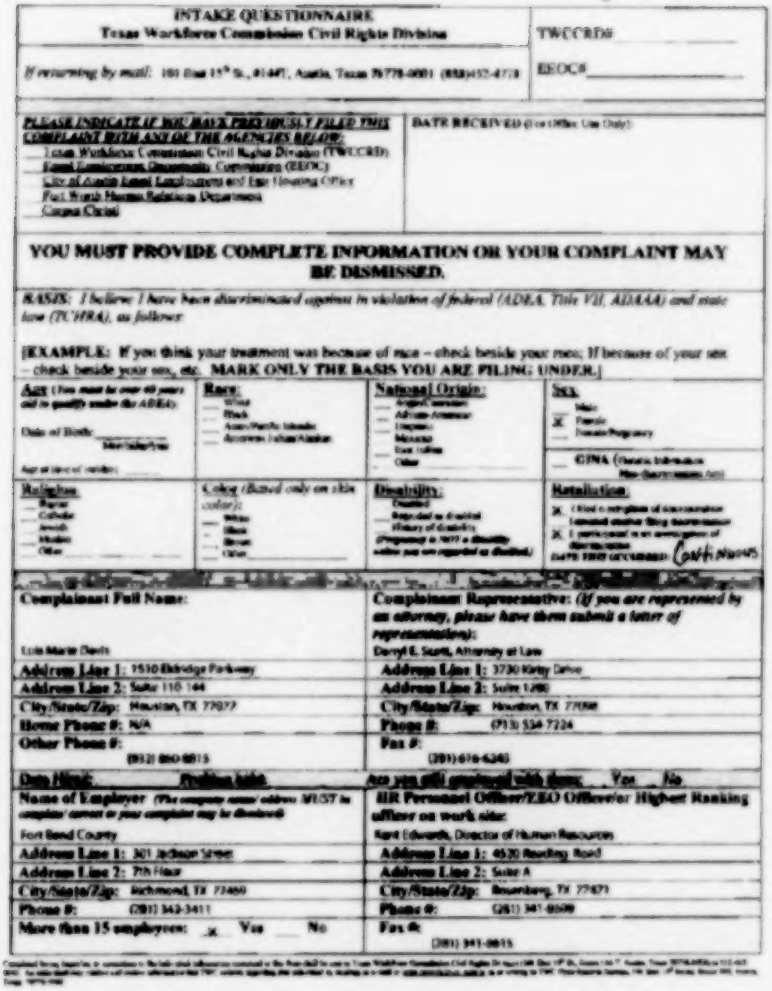
v.

FORT BEND COUNTY

EXHIBIT A

TO

DECLARATION OF LOIS M. DAVIS



INTAKE QUESTIONNAIRE
Texas Workforce Commission Civil Rights Division

TWCCRD#

If returning by mail: 101 East 15th St., #144T, Austin, Texas 78778-0001 (512)452-4778

EEOC#

PLEASE INDICATE IF YOU HAVE PREVIOUSLY FILED THIS COMPLAINT WITH ANY OF THE AGENCIES BELOW:
___ Texas Workforce Commission Civil Rights Division (TWCCRD)
___ Equal Employment Opportunity Commission (EEOC)
___ City of Austin Equal Employment and Fair Housing Office
___ Fort Worth Human Relations Department
___ Corpus Christi

DATE RECEIVED (For TWCCRD Use Only):

YOU MUST PROVIDE COMPLETE INFORMATION OR YOUR COMPLAINT MAY BE DISMISSED.

BASIS: I believe I have been discriminated against in violation of federal (ADEA, Title VII, ADAAA) and state law (TCHRA), as follows:

[**EXAMPLE:** If you think your treatment was because of race – check beside your race; If because of your sex – check beside your sex, etc. **MARK ONLY THE BASIS YOU ARE FILING UNDER.**]

Age (You must be over 40 years old to qualify under the ADEA):
Date of Birth: _____
Age at time of incident: _____

Race:
___ White
___ Black
___ Asian/Pacific Islander
___ American Indian/Alaskan

National Origin:
___ Hispanic
___ African-American
___ Caucasian
___ Mexican
___ East Indian
___ Other _____

Sex:
___ Male
X Female
___ Female/Pregnancy

___ **GINA** (Genetic Information Non-Discrimination Act)

Religion:
___ Baptist
___ Catholic
___ Jewish
___ Muslim
___ Other _____

Color (Based only on skin color):
___ White
___ Black
___ Brown
___ Other _____

Disability:
___ Disabled
___ Regarded as Disabled
___ History of Disability
(Pregnancy is NOT a disability unless you are regarded as disabled.)

Retaliation:
X I filed a complaint of discrimination
___ I assisted another filing discrimination
X I participated in an investigation of discrimination
DATE THEY occurred: Continuous

Complainant Full Name:	**Complainant Representative:** *(If you are represented by an attorney, please have them submit a letter of representation):*
Luis Mario Davis	Darryl E. Scott, Attorney at Law
Address Line 1: 1510 Eldridge Parkway	**Address Line 1:** 3730 Kirby Drive
Address Line 2: Suite 110-144	**Address Line 2:** Suite 1490
City/State/Zip: Houston, TX 77077	**City/State/Zip:** Houston, TX 77098
Home Phone #: N/A	**Phone #:** (713) 524-7224
Other Phone #: (832) 880-8815	**Fax #:** (281) 676-6345
Date Hired: Position title:	**Are you still employed with them:** ___ Yes ___ No
Name of Employer *(The company name/address MUST be complete/ correct or your complaint may be dismissed)*	**HR Personnel Officer/EEO Officer/or Highest Ranking officer on work site:**
Fort Bend County	Kent Edwards, Director of Human Resources
Address Line 1: 301 Jackson Street	**Address Line 1:** 4520 Reading Road
Address Line 2: 7th Floor	**Address Line 2:** Suite A
City/State/Zip: Richmond, TX 77469	**City/State/Zip:** Rosenberg, TX 77471
Phone #: (281) 343-3411	**Phone #:** (281) 341-8609
More than 15 employees: X Yes ___ No	**Fax #:** (281) 341-8615

Completed Intake Questionnaire is the date when information contained in the Intake shall be used to initiate Texas Workforce Commission Civil Rights Division (CRD) charge. Under Title VII, Section 706 of the Civil Rights Act of 1964, as amended, and the Americans with Disabilities Act, as amended, a charge must be filed with the EEOC within 180 days of the date of the alleged unlawful employment practice. Under the Texas Commission on Human Rights Act, a charge must be filed with the CRD within 180 days of the date of the alleged unlawful employment practice. Therefore, to protect your rights, it is important that you contact the CRD or EEOC promptly after the alleged unlawful employment practice occurs.

Employment Harms or Actions (*Mark all that apply*)

___ Severance Pay (B5)	___ Hiring (H2)	___ Suspension (S5)
___ Demotion (D1)	___ Layoff (L1)	___ Terms & Conditions (T2)
___ Discharge (D2)	___ Promotion (P1)	___ Training (T4)
X Discipline (D3)	___ Reasonable Accommodation (R6)	X Wages (W1)
X Harassment (H1)	X Sexual Harassment (S4)	X Other: Hostile Environ

The following questions are optional. The answers will [illegible] your claim.

DATE OF FIRST HARM: 09-21-2010

Explain what happened *(Provide full names and position titles of all involved in this action)*:

Kenneth Ford, Technical Services Mgr, for Fort Bend County IT Department, issued a written warning to me for failure to complete assigned duties. No prior verbal warning was received, which is the department's policy. This warning had no merit.

Reason Employer gave you for their actions:

Not following an assigned task that was supposed to be carried out the prior week

Provide the full names of other employees treated *MORE FAIRLY* than you. *(If you filed under race give their race, if under sex, give their sex, etc.)*:

The task was assigned to BB Rayner, Network Engineer, who was never reprimanded, disciplined or given warning.

DATE OF SECOND HARM: 12-07-2010

Explain what happened *(Provide full names and position titles of all involved in this action)*:

Verbal warnings about my lunch break

Reason Employer gave you for their actions:

Warning to me about taking extended lunch breaks

Provide the full names of other employees treated *MORE FAIRLY* than you. *(If you filed under race give their race, if under sex, give their sex, etc.)*:

Fort Bend County Managers and Supervisors

DATE OF THIRD HARM: 12-10-2010

Explain what happened *(Provide full names and position titles of all involved in this action)*:

My time card submitted to Payroll by my manager coded with Leave Non FMLA - No Pay

Reason Employer gave you for their actions:

None given

Provide the full names of other employees treated *MORE FAIRLY* than you. *(If you filed under race give their race, if under sex, give their sex, etc.)*:

Fort Bend County Managers and Supervisors

[redacted]

I am aware that this charge will also be filed with both the EEOC and State or Local Agency. I will accept my responsibility to advise the agency if I change my address, phone number, or employment status, and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

Signature of Complainant: Kristi M Ward **Date:** 02-15-11 (Month, Day, Year)

TO: **Ms. Bettye Taylor**
bettye.taylor@twc.state.tx.us

FROM: **Lois Marie Davis**
lois.davis@sbcglobal.net

DATE: **February 15, 2011**

RE: **INTAKE QUESTIONNAIRE & SUMMARY**

Thank you so very much for returning my call. May I preface this by noting that I am a single mother who raised her son since he was age 4. As the sole provider for my son, I was determined to put every effort I had in doing the best job possible, to get my son graduated from high school, and off to college. I had been unemployed for 6 months prior to getting this job.

I must speak up now, because:

- I am highly stressed and frustrated
- I have no support from my IT Director, IT Leadership, nor Human Resources
- No other Supervisor at Fort Bend County IT Department is being treated as I
- There is constant action that undermine my ability to succeed at work
- I was told by IT Director if I was unhappy, had I thought about looking for another job - 09/21/10 or 09/22/10
- I was told by IT Director that I needed to communicate with my manager more; asked to spend 30-minutes per day with my manager to

discuss what my team was working on – only because he was informed by my boss that I do not communicate; no other Supervisor is required to do this

- I have received a written warning from my manager for not completing a single task (that was assigned to one of my Network technicians) – 09/21/2010
- I was advised of changes in my job responsibilities by my manager; I am totally left out of interviews of possible candidates to take over the responsibilities I am currently doing – 11/10/2010
- I was advised by my manager and H.R. that if I do not have any accrued time available, regardless of how many hours a week worked, my pay would be docked for a full 8-hour day for the total number of days I am off – 02/04/2011
- My time cards submitted by my manager with Non-FMLA No Pay – 12/09/2010
- I was asked to participate in a meeting (my manager had scheduled) totally unprepared for at the last minute
- I have received verbal warnings three times about taking an extended lunch breaks (I am an exempt employee)
- I am not invited to meetings which directly affect my staff; constantly left out of meetings regarding work discussion or planning that gravely effect team; periodically invited

- There have been interviews with candidates for positions that directly report to me, set up and scheduled by my boss without discussing with me and without checking my schedule; job offers made to candidates without my input, regardless of applicant evaluations submitted by me
- I was removed from a Help Desk project in which I was the Project Lead
- Called into manager's office to discuss 2 or 3 items that may have not been completed by technician in a timely manner (average of 100+ calls per week); no positive feedback from manager at all

I filed a Sexual Harassment Claim against previous FBC IT Director. I was harassed for a two year period (between 12/17/2007 and 04/01/2010. The IT Director left the County on 04/22/10; his official resignation date – 05/31/2010

NOTE: Previous IT Director's friend/church member was hired as my manager prior to Sexual Harassment claim

I returned from 6-week FMLA (due to extreme stress and investigation of claim)

- May 12, 2010 — I returned to work
- May 21, 2010 — I was called into my manager's office to discuss my lunch break (this had never happened in the past)

I am dealing with ongoing actions toward me, which include harassment, discipline, and being subjected to an extremely hostile work environment.

Please let me know of any additional information you need.

I thank you so very much.

IT Leadership Team
Ray Webb, Current IT Director
Connie Heinecke, IT Projects Manager
Carol Holub, Application & System Programming Manager
Kenneth Ford, Technical Services Manager

Reports to Kenneth Ford, Technical Services Manager
Lois Davis, Desktop Support Supervisor
Bill Rimmer, Network Engineer (reports to me)
Margaret Materre, Help Desk Supervisor
David King, Infrastructure Analyst

Kent Edwards, Human Resources Director
Kathy Novasad, H.R. Generalist/Employee Relations

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CIVIL ACTION 4:12-CV-131

JURY TRIAL DEMANDED

LOIS M. DAVIS,

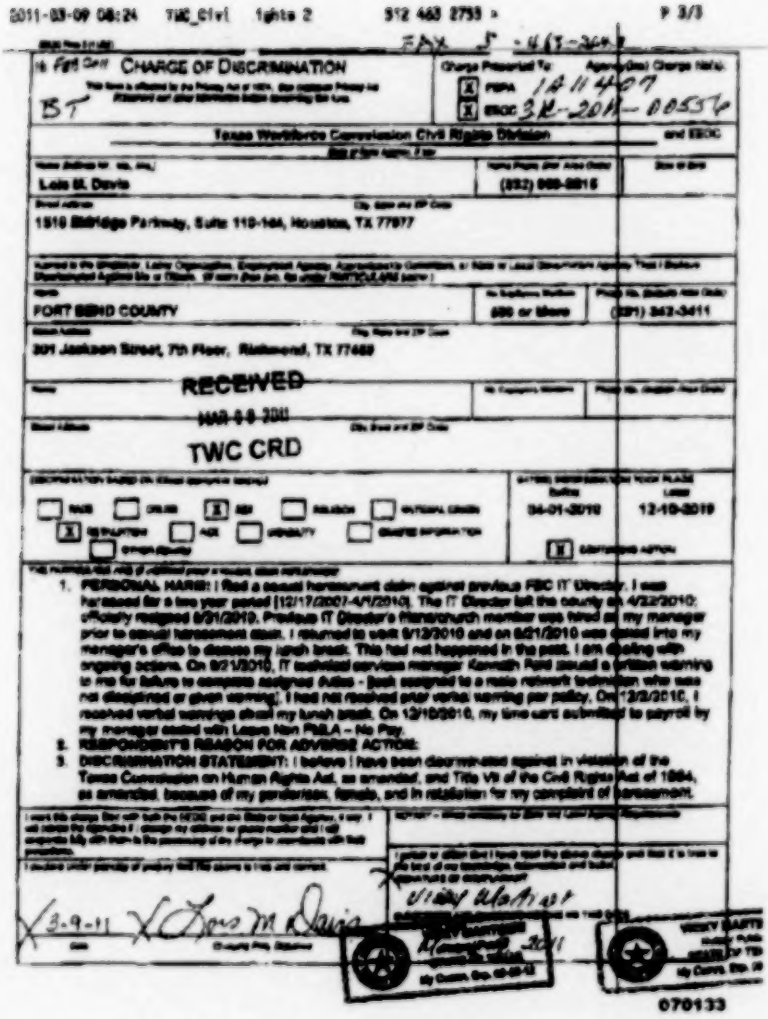
v.

FORT BEND COUNTY

EXHIBIT B

TO

DECLARATION OF LOIS M. DAVIS



2011-03-09 08:24 TWC_Civil Rights 2 512 463 2755 » P 3/3

FAX 5-463-2755

CHARGE OF DISCRIMINATION

Charge Presented To: [X] FEPA 1411407 [X] EEOC 31-2011-00554

Texas Workforce Commission Civil Rights Division and EEOC

Lois M. Davis | (832) 969-8816

1519 Eldridge Parkway, Suite 110-164, Houston, TX 77077

FORT BEND COUNTY | 500 or More | (281) 342-3411

301 Jackson Street, 7th Floor, Richmond, TX 77469

RECEIVED
MAR 09 2011
TWC CRD

RACE [ ] COLOR [X] SEX [ ] RELIGION [ ] NATIONAL ORIGIN
[X] RETALIATION [ ] AGE [ ] DISABILITY [ ] GENETIC INFORMATION
[ ] Other Basis(es)

Earliest: 04-01-2010 | Latest: 12-10-2010 | [X] Continuing Action

1. PERSONAL HARM: I filed a sexual harassment claim against previous FBC IT Director. I was harassed for a two year period [12/17/2007-4/1/2010]. The IT Director left the county on 4/22/2010; officially resigned 6/21/2010. Previous IT Director's friend/church member was hired as my manager prior to sexual harassment claim. I returned to work 5/12/2010 and on 6/21/2010 was called into my manager's office to discuss my lunch break. This had not happened in the past. I am dealing with ongoing actions. On 9/21/2010, IT technical services manager, Kenneth Ford issued a written warning to me for failure to complete assigned duties - task assigned to a radio network technician who was not disciplined or given warning. I had not received prior verbal warning per policy. On 12/3/2010, I received verbal warnings about my lunch break. On 12/10/2010, my time card submitted to payroll by my manager dealing with Leave Non PSLA – No Pay.
2. RESPONDENT'S REASON FOR ADVERSE ACTION:
3. DISCRIMINATION STATEMENT: I believe I have been discriminated against in violation of the Texas Commission on Human Rights Act, as amended, and Title VII of the Civil Rights Act of 1964, as amended, because of my gender/sex, female, and in retaliation for my complaint of harassment.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

3-9-11 X Lois M Davis

I prefer to affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

Vicky Martinez

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)

VICKY MARTIN
Notary Public
STATE OF TEXAS
My Comm. Exp. 10-09-13

070133

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CIVIL ACTION 4:12-CV-131

JURY TRIAL DEMANDED

LOIS M. DAVIS,

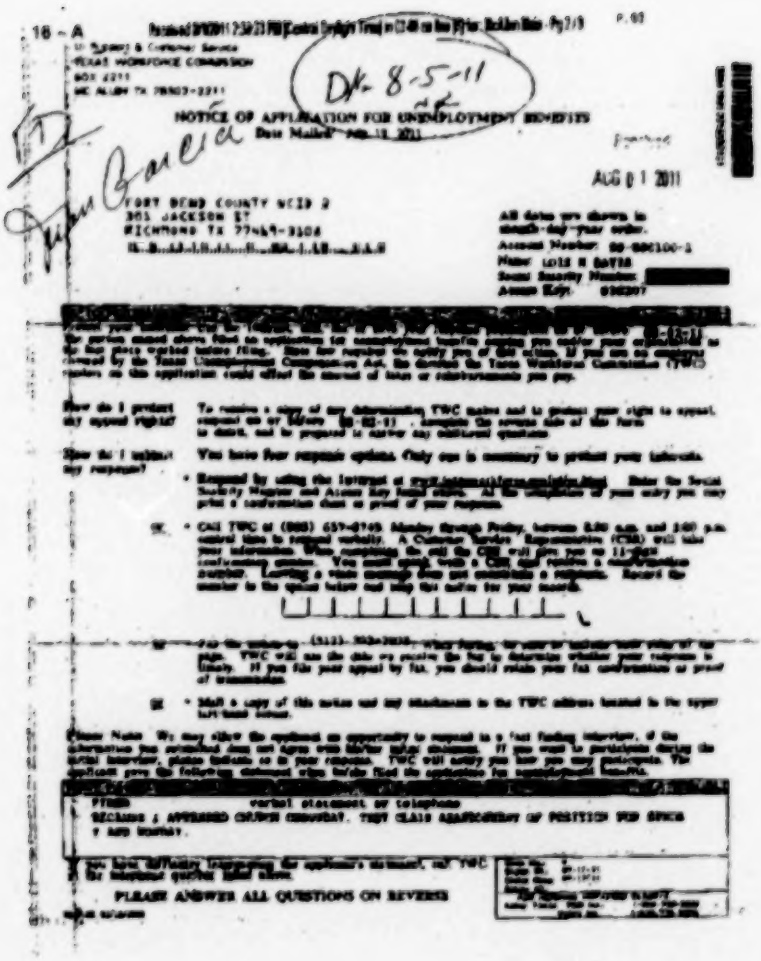
v.

FORT BEND COUNTY

EXHIBIT C

TO

DECLARATION OF LOIS M. DAVIS



18 - A

TEXAS WORKFORCE COMMISSION

NOTICE OF APPLICATION FOR UNEMPLOYMENT BENEFITS

Date Mailed: AUG 01 2011

FORT BEND COUNTY WCID 2
301 JACKSON ST
RICHMOND TX 77469-3108

All dates are shown in month-day-year order.
Account Number: 09-606100-1
Name: LOIS H SMITH
Social Security Number: [redacted]
Annual Rate: $36207

How do I protest my appeal rights?

How do I submit my response?

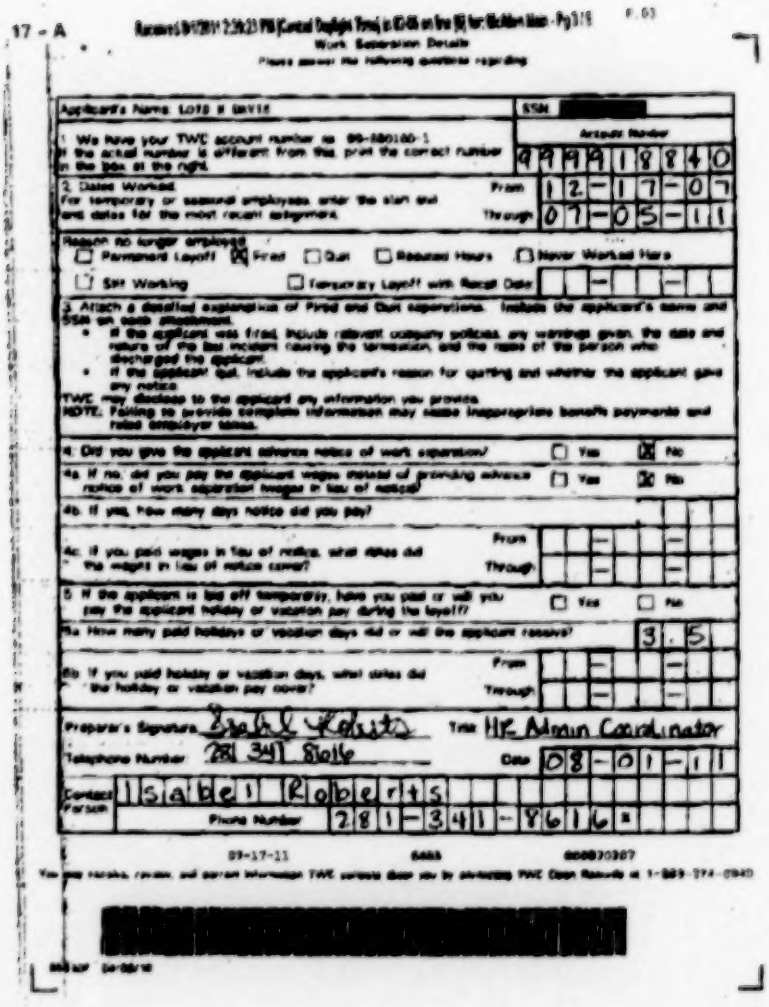
Call TWC at (888) 657-8745 Monday through Friday, between 8:30 a.m. and 3:00 p.m. central time to respond verbally. A Customer Service Representative (CSR) will take your information. When completing the call the CSR will give you an 11-digit confirmation number. You could speak with a CSR and receive a confirmation number, leaving a voice message that you attempted to respond. Record the number in the space below and keep this notice for your records.

Mail a copy of this notice and any attachments to the TWC address located in the upper left-hand corner.

Please Note: We may offer the applicant an opportunity to respond in a fact finding interview. If the information you furnished does not agree with his/her initial statement, it may be used to determine during the initial interview, please indicate so in your response. TWC will notify you how you may participate. The applicant gave the following statement when he/she filed the application for unemployment benefits.

PTSER verbal statement, by telephone
BECAUSE I APPEARED CHURCH CHOIRSAT. THEY CLAIM ABANDONMENT OF POSITION FOR EMCH
Y AND MONTHS.

PLEASE ANSWER ALL QUESTIONS ON REVERSE



17 - A

Work Separation Details

Please answer the following questions regarding

Applicant's Name: LOTO II DAVIS | SSN: [redacted]

1. We have your TWC account number as 99-880180-1. If the actual number is different from this, print the correct number in the box at the right. | Account Number: 9999184840

2. Dates Worked. For temporary or seasonal employees, enter the start and end dates for the most recent assignment. From: 12-17-07 Through: 07-05-11

Reason no longer employed: ☐ Permanent Layoff ☒ Fired ☐ Quit ☐ Reduced Hours ☐ Never Worked Here ☐ Still Working ☐ Temporary Layoff with Recall Date: ___-___-___

3. Attach a detailed explanation of Fired and Quit separations. Include the applicant's name and SSN on each attachment.
- If the applicant was fired, include relevant company policies, any warnings given, the date and nature of the last incident leading the termination, and the name of the person who discharged the applicant.
- If the applicant quit, include the applicant's reason for quitting and whether the applicant gave any notice.

TWC may disclose to the applicant any information you provide.
NOTE: Failing to provide complete information may cause inappropriate benefit payments and raise employer taxes.

4. Did you give the applicant advance notice of work separation? ☐ Yes ☒ No

4a. If no, did you pay the applicant wages instead of providing advance notice of work separation (wages in lieu of notice)? ☐ Yes ☒ No

4b. If yes, how many days notice did you pay? ___

4c. If you paid wages in lieu of notice, what dates did the wages in lieu of notice cover? From: ___-___-___ Through: ___-___-___

5. If the applicant is laid off temporarily, have you paid or will you pay the applicant holiday or vacation pay during the layoff? ☐ Yes ☐ No

5a. How many paid holidays or vacation days did or will the applicant receive? 3.5

5b. If you paid holiday or vacation days, what dates did the holiday or vacation pay cover? From: ___-___-___ Through: ___-___-___

Preparer's Signature: Isabel Roberts Title: HR Admin Coordinator

Telephone Number: 281 341 8616 Date: 08-01-11

Contact Person: Isabel Roberts Phone Number: 281-341-8616 x

09-17-11 6488 000870307

You may review, revise, and correct information TWC receives about you by accessing TWC Data Review at 1-888-274-3940.

[redacted]

TWC-P-0858-10

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CIVIL ACTION 4:12-CV-131

JURY TRIAL DEMANDED

LOIS M. DAVIS,

v.

FORT BEND COUNTY

EXHIBIT D

TO

DECLARATION OF LOIS M. DAVIS

HUMAN RESOURCES DEPARTMENT
FORT BEND COUNTY, TEXAS

TO: Texas Workforce Commission

FROM: Isabel Roberts
Human Resources Administrative Coordinator

DATE: August 1, 2011

RE: Request for separation information
Employee: Lois Davis.; SSN xxx-xx-xxxx

Lois Davis was the Desk Top Support Supervisor in the Information Technology Department for Fort Bend County. As such, she was expected to work the weekend of June 30-July 4, 2011, along with the entire Information Technology Department staff. Fort Bend County was moving into the new 265,000 sq. ft. Justice Center. Relocating and installing computers in the new Justice Center for six (6) District Courts, four (4) County Courts, County Clerk, District Clerk, District Attorney, and other offices who support the courts was paramount to the move. Employees of the Information Technology Department, including Ms Davis, were told months in advance that they would have to work the weekend of June 30-July 4, 2011.

On June 28, 2011, two (2) days before the scheduled move, Ms Davis verbally notified her supervisor, Kenneth Ford, that she was not able to work on Sunday, July 3, 2011, because she had an all day church event to attend. Kenneth Ford informed Ms Davis that she was expected to work the entire weekend. Mr. Ford attempted to compromise with

Ms Davis by allowing her the opportunity to go to church on Sunday morning and report to work after services. She rejected this offer. Mr. Ford informed her that if she did not report to work on Sunday, she would be subject to discipline up to and including termination. Ms Davis failed to report to work on Sunday, July 3, 2011. Ms Davis' entire team worked on July 3, 2011. Furthermore, she was scheduled to work on Monday, July 4, 2011, yet she failed to show up to work on that date and did not email or notify her supervisor in any way that she was unable to work on Monday, July 4. Ms Davis' entire team worked on July 4, 2011. Ms Davis' failure to work this weekend that had been scheduled months in advance was unexcused and in complete disregard for her Supervisor and her team, as well as the departments who needed her assistance so that the Courts could be operational at the new facility on Tuesday, July 5, 2011.

Ms Davis reported to work on Tuesday, July 5 but was sent home with pay. That day, the decision was made to terminate Ms Davis for failure to report to work on Sunday and Monday July 3 and 4 as directed. Ray Webb, IT Director, informed her of this decision by phone on Wednesday, July 6.

Date of Hire:	December 17, 2007
Last Date Worked:	July 5, 2011
Title:	Desk Top Support Supervisor
Rate of Pay:	$26.93 per hour
Reason:	Terminated for Violation of Policy

If you should have any questions, please do not hesitate to contact me.

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CIVIL ACTION 4:12-CV-131

JURY TRIAL DEMANDED

LOIS M. DAVIS,

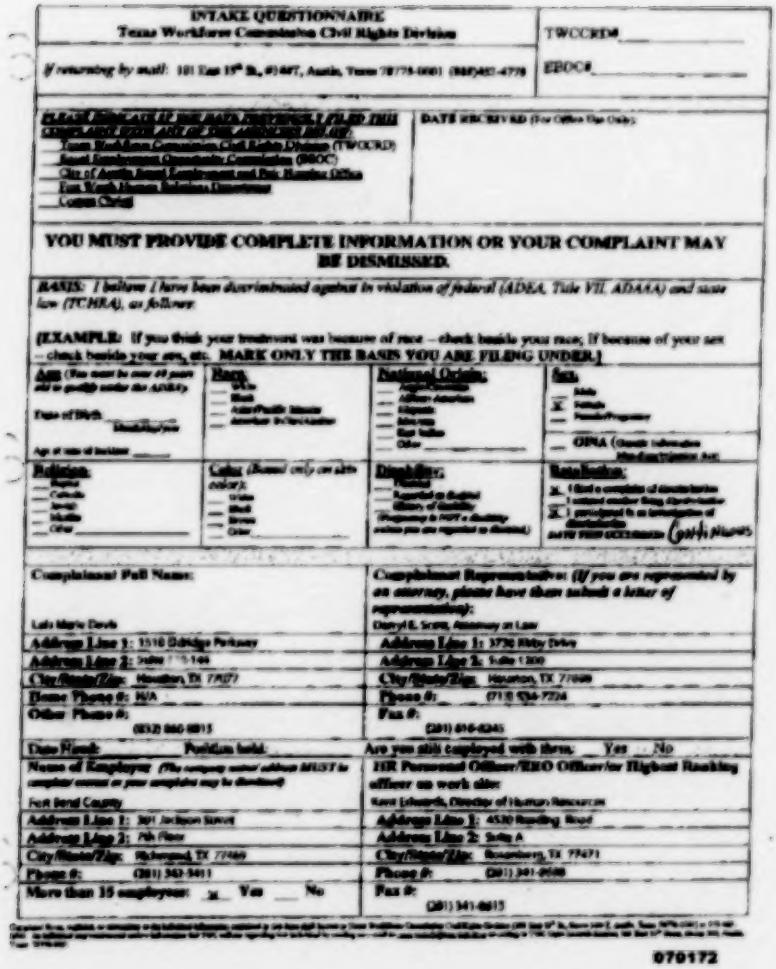
v.

FORT BEND COUNTY

EXHIBIT E

TO

DECLARATION OF LOIS M. DAVIS



INTAKE QUESTIONNAIRE
Texas Workforce Commission Civil Rights Division

TWCCRD#_____

If returning by mail: 101 East 15th St., #144T, Austin, Texas 78778-0001 (512)463-4778

EEOC#_____

PLEASE INDICATE IF THIS MATTER PREVIOUSLY FILED THIS COMPLAINT WITH ANY OF THE AGENCIES BELOW:
__ Texas Workforce Commission Civil Rights Division (TWCCRD)
__ Equal Employment Opportunity Commission (EEOC)
__ City of Austin Equal Employment and Fair Housing Office
__ Fort Worth Human Relations Commission
__ Corpus Christi

DATE RECEIVED (For Office Use Only)

YOU MUST PROVIDE COMPLETE INFORMATION OR YOUR COMPLAINT MAY BE DISMISSED.

BASIS: I believe I have been discriminated against in violation of federal (ADEA, Title VII, ADAAA) and state law (TCHRA), as follows:

(EXAMPLE: If you think your treatment was because of race – check beside your race; if because of your sex – check beside your sex, etc. **MARK ONLY THE BASIS YOU ARE FILING UNDER.)**

Age (You must be over 40 years old to qualify under the ADEA)
Date of Birth _____ (Month/Day/Year)
Age at time of incident _____

Race:
__ White
__ Black
__ Asian/Pacific Islander
__ American Indian/Alaskan

National Origin:
__ Hispanic
__ African American
__ Hispanic
__ Middle East
__ Asian
__ Other _____

Sex:
__ Male
X Female
__ Pregnancy

__ GINA (Genetic Information Nondiscrimination Act)

Religion:
__ Baptist
__ Catholic
__ Jewish
__ Muslim
__ Other _____

Color (Based only on skin color):
__ White
__ Black
__ Brown
__ Other _____

Disability:
__ Physical
__ Reported to Employer
__ Mental
__ Perceived as Disabled by Employer
(Pregnancy is NOT a disability unless you are reported to disabled)

Retaliation:
X I filed a complaint of discrimination
__ I opposed another form of discrimination
X I participated in an investigation of discrimination
DATE THIS occurred: Continuous

Complainant Full Name:	**Complainant Representative:** *(If you are represented by an attorney, please have them submit a letter of representation):*
Lois Marie Davis	Darryl L. Scott, Attorney at Law
Address Line 1: 1510 Eldridge Parkway	**Address Line 1:** 3730 Kirby Drive
Address Line 2: Suite 1100	**Address Line 2:** Suite 1200
City/State/Zip: Houston, TX 77077	**City/State/Zip:** Houston, TX 77098
Home Phone #: N/A	**Phone #:** (713) 524-7724
Other Phone #: (832) 860-8813	**Fax #:** (281) 816-8245
Date Hired: _____ **Position held:** _____	**Are you still employed with them:** __ Yes __ No
Name of Employer *(The company owner whose MUST be named correct or your complaint may be dismissed)* Fort Bend County	**HR Personnel Officer/EEO Officer/or Highest Ranking officer on work site:** Kent Edwards, Director of Human Resources
Address Line 1: 301 Jackson Street	**Address Line 1:** 4520 Reading Road
Address Line 2: 7th Floor	**Address Line 2:** Suite A
City/State/Zip: Richmond, TX 77469	**City/State/Zip:** Rosenberg, TX 77471
Phone #: (281) 342-3411	**Phone #:** (281) 341-8600
More than 15 employees: X Yes __ No	**Fax #:** (281) 341-8615

070172

Employment Harms or Actions (Mark all that apply)

___ Severance Pay (B5)	___ Hiring (H2)	___ Suspension (S5)
___ Demotion (D1)	___ Layoff (L1)	___ Terms & Conditions (T2)
✓ Discharge (D2)	___ Promotion (P2)	___ Training (T4)
X Discipline (D3)	✓ Reasonable Accommodation (R6)	X Wages (W1)
X Harassment (H1)	X Sexual Harassment (S4)	X Other: Hostile Environ; Retaliation

The following questions are regarding the actions of discrimination taken against you *(Each portion must be within 180 days from the date you retained the law you select your complaint in the EEOC/FEPA)*

DATE OF FIRST HARM: 10-21-2010

Explain what happened *(Provide full names and position titles of all involved in this action)*:

Kenneth Ford, Technical Services Mgr, for Fort Bend County ff Department, issued a written warning to me for failure to complete assigned duties. No prior verbal warning was received, which is the department's policy. This warning had no merit.

Reason Employer gave you for their actions:

Not following an assigned task that was supposed to be carried out the prior week

Provide the full names of other employees treated *MORE FAIRLY* than you. *(If you filed under race give their race, if under sex, give their sex, etc.)*:

The task was assigned to Bill Ramirez, Network Engineer, who was never reprimanded, disciplined or given warning.

DATE OF SECOND HARM: 12-02-2010

Explain what happened *(Provide full names and position titles of all involved in this action)*:

Verbal warnings about my lunch break

Reason Employer gave you for their actions:

Warning to me about taking extended lunch breaks

Provide the full names of other employees treated *MORE FAIRLY* than you. *(If you filed under race give their race, if under sex, give their sex, etc.)*:

Fort Bend County Managers and Supervisors

DATE OF THIRD HARM: 12-16-2010

Explain what happened *(Provide full names and position titles of all involved in this action)*:

My time card submitted to Payroll by my manager coded with Leave Non FMLA - No Pay

Reason Employer gave you for their actions:

None given

Provide the full names of other employees treated *MORE FAIRLY* than you. *(If you filed under race give their race, if under sex, give their sex, etc.)*:

Fort Bend County Managers and Supervisors

SIGNATURE

I am aware that this charge will also be filed with both the EEOC and State or local Agency. I will accept any responsibility to advise the agency if I change my address, phone number, or employment status, and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

Signature of Complainant: Kristi M Davis **Date:** 02-15-11 (Month, Day, Year)

070173

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CIVIL ACTION 4:12-CV-131

JURY TRIAL DEMANDED

LOIS M. DAVIS,

v.

FORT BEND COUNTY

EXHIBIT F

TO

DECLARATION OF LOIS M. DAVIS

TEXAS WORKFORCE COMMISSION
CIVIL RIGHTS DIVISION

November 10, 2011

PRE-DETERMINATION LETTER

Lois Davis
c/o Darryl Scott, Attorney
3730 Kirby Dr., Suite 1200
Houston, TX 77098

RE: Lois Davis v. Fort Bend County
TWCCRD NO. 1A11407
EEOC NO. 31C-2011-00556

Dear Ms. Davis:

We have completed a careful review of the charge of employment discrimination you filed against Westlake Chemical Corp. Our review included an assessment of all the information/documentation submitted by both parties.

As a result of the review, we have made a preliminary decision to dismiss the charge on or about 11/23/11. Based on the available evidence/information, it cannot be established that the employer has discriminated against you based on Sex, Retaliation, or any other reason prohibited by the laws we enforce.

The available information/evidence shows:

Performance Evaluation dated 12/20/10 is rated Overall as "Meets Job Requirements"

Affidavit from the Director of HR affirms on 4/5/10, you delivered a Request for FMLA and a complaint of Sexual Harassment to HR alleging you were subjected to sexual harassment by you Director and needed paid leave, as this had caused you emotional issues and were seeking medical treatment. Respondent further affirms you were granted paid FMLA until your return on May 12, 2010, although you had no accrued leave, along with a copy of the Employee Action Form show "Leave-Paid FMLA". Respondent immediately conducted an internal investigation while you were on leave and affirms several employees corroborated your allegations, although the Director denied all allegations. Respondent also affirms that the Director elected to resign after he was informed that he would be required to go before the Commissioner's Court to discuss the investigation and potential disciplinary action, in accordance with Respondent's policies. A copy of the Agenda for said meeting shows the action on the Items list of the Agenda.

Respondent provided a list of supervisory employees who have been terminated for violation of policies, which shows a total of 13, including yourself, of which 8 were female and 5 were males. Respondent affirms, and your termination document reflects that you were terminated for violation of policies. It is affirmed that you were instructed to assist in the County offices being moved on Sunday 7/3/11 and became insubordinate to managers, stating you had Church commitments, refused to answer several calls, emails, and text messages

when management was trying to locate you on the day before the move, refused to state your location, then did not call or show up on the moving day. A copy of the newspaper article of the move was provided, copies of emails asking that you meet with your supervisor, and all County policies were also provided. Records reflect that you were granted paid FMLA, and an immediate investigation was conducted upon your lodging a complaint, witnesses corroborated your allegations, and the Director elected to resign in lieu of disciplinary action.

Without more specific evidence of discrimination provided by you, the Commission will not take further action on the charge because there is not enough evidence that indicates further investigation will result in establishing a violation.

If you have additional evidence to offer in support of your allegations, you should submit it in writing at the listed address or Fax number 512/463-2643, to ensure our receipt before 11/23/11 (or postmarked with this date.). You may call the Investigator listed below, or Janet Quesnel, Team Manager, at 512/463-4363 or toll free 1/888/452-4778. If your charge is dismissed at that time, the Dismissal Notice explains, that while the Commission is not certifying that the employer is in compliance with the laws we enforce, our investigation has revealed insufficient evidence to warrant further processing of the charge. The Notice will describe your right to pursue the matter by filing a lawsuit in state court within 60 days of your receipt of the notice and your right to contact the EEOC in writing within 15 days of your receipt to request a review of the Division's decision.

Once your case has been closed, you may receive a complete copy of the file by submitting an Open Records request at open.records@twc.state.tx.us or contacting CRD direct.

Sincerely,

Patty Herrera
Civil Rights Investigator

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CIVIL ACTION 4:12-CV-131

JURY TRIAL DEMANDED

LOIS M. DAVIS,

v.

FORT BEND COUNTY

EXHIBIT G

TO

DECLARATION OF LOIS M. DAVIS

DISMISSAL AND NOTICE OF RIGHT TO FILE A CIVIL ACTION

FROM: Texas Workforce Commission
Civil Rights Division
101 E 15th St # 144-T
Austin, TX 78778-0001

TO: Lois Davis
c/o Darryl Scott, Attorney
3730 Kirby Dr., Suite 1200
Houston, TX 77098

TWCCRD Charge No. **1A11407**

EEOC Charge No. **31C-2011-00556**

TWCCRD Representative: **PAH**

THE TWCCRD IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

[ ] Your allegations did not involve a disability that is covered by the Americans with Disabilities Act or the Texas Commission on Human Rights Act.

[ ] The Respondent employs less than the required number of employees or not otherwise covered by the statutes.

[ ] Having been given 30 days in which to respond, you failed to provide information, failed to appear or be available for interviews/conferences, or otherwise failed to cooperate to the extent that it was not possible to resolve your charge.

[ ] The TWCCRD issues the following determination: Based upon its investigation, the TWCCRD is unable to conclude that the information obtained establishes any violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.

[X] Other: **COMPLAINANT REQUESTED NOTICE OF RIGHT TO FILE CIVIL ACTION**

NOTICE OF RIGHT TO FILE A CIVIL ACTION

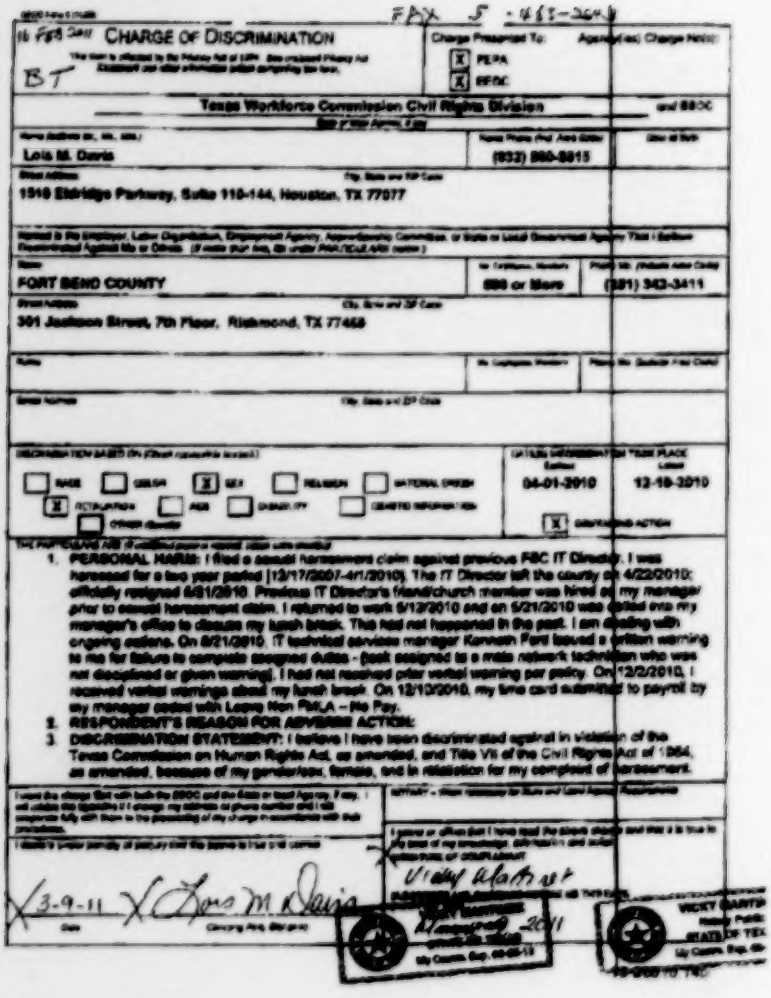
Pursuant to Sections 21.208, 21.252 and 21.254 of the Texas Labor Code, as amended, this notice is to advise you of your right to bring a private civil action in state court in the above referenced case. **PLEASE BE ADVISED THAT YOU HAVE SIXTY (60) DAYS FROM THE DATE OF SIGNATURE TO FILE THIS CIVIL ACTION.** (The time limit for filing suit based on a federal claim may be different.)

On behalf of the Commission

/s/ Janet G. Quesnel
Janet G. Quesnel,
Employment Manager
Texas Workforce Commission

DATE: 11/17/11

cc: Mary Reveles, Assistant County Attorney
Fort Bend County
301 Jackson St., 7th Floor
Richmond, TX 77469



FAX 5-463-3660

16 FEB 2011 CHARGE OF DISCRIMINATION

BT

Charge Presented To: [X] FEPA [X] EEOC

Texas Workforce Commission Civil Rights Division and EEOC

Lois M. Davis — (832) 860-5815

1510 Eldridge Parkway, Suite 110-144, Houston, TX 77077

FORT BEND COUNTY — 500 or More — (281) 342-3411

301 Jackson Street, 7th Floor, Richmond, TX 77469

[X] SEX [X] RETALIATION — Earliest: 04-01-2010 — Latest: 12-10-2010 — [X] CONTINUING ACTION

1. PERSONAL HARM: I filed a sexual harassment claim against previous FBC IT Director. I was harassed for a two year period (12/17/2007-4/1/2010). The IT Director left the county on 4/22/2010; officially resigned 5/31/2010. Previous IT Director's friend/church member was hired as my manager prior to sexual harassment claim. I returned to work 9/13/2010 and on 9/21/2010 was called into my manager's office to discuss my lunch break. This had not happened in the past. I am dealing with ongoing actions. On 9/21/2010, IT technical services manager Kenneth Ford issued a written warning to me for failure to complete assigned duties - task assigned to a male network technician who was not disciplined or given warning). I had not received prior verbal warning per policy. On 12/2/2010, I received verbal warnings about my lunch break. On 12/10/2010, my time card submitted to payroll by my manager coded with Leave Non PMLA – No Pay.
2. RESPONDENT'S REASON FOR ADVERSE ACTION:
3. DISCRIMINATION STATEMENT: I believe I have been discriminated against in violation of the Texas Commission on Human Rights Act, as amended, and Title VII of the Civil Rights Act of 1964, as amended, because of my gender/sex, female, and in retaliation for my complaint of harassment.

3-9-11 X Lois M Davis

Vicky Martinez

VICKY MARTINEZ — Notary Public — STATE OF TEXAS — My Comm. Exp. 09-08-13

INTAKE QUESTIONNAIRE
Texas Workforce Commission Civil Rights Division

TWCCRD#_____

If returning by mail: 101 East 15th St., #144T, Austin, Texas 78778-0001 (888)452-4778

EEOC#_____

PLEASE INDICATE IF YOU HAVE PREVIOUSLY FILED THIS COMPLAINT WITH ANY OF THE AGENCIES BELOW:
__ Texas Workforce Commission Civil Rights Division (TWCCRD)
__ Equal Employment Opportunity Commission (EEOC)
__ City of Austin Equal Employment and Fair Housing Office
__ Fort Worth Human Relations Department
__ Dallas Office

DATE RECEIVED (For Office Use Only):

YOU MUST PROVIDE COMPLETE INFORMATION OR YOUR COMPLAINT MAY BE DISMISSED.

BASIS: *I believe I have been discriminated against in violation of federal (ADEA, Title VII, ADAAA) and state law (TCHRA), as follows:*

[EXAMPLE: If you think your treatment was because of race – check beside your race; If because of your sex – check beside your sex, etc. **MARK ONLY THE BASIS YOU ARE FILING UNDER.]**

Age (You must be over 40 years old to qualify under the ADEA).
Date of Birth: _____ (Month/day/year)
Age at time of incident: _____

Race:
__ White
__ Black
__ Asian/Pacific Islander
__ American Indian/Alaskan

National Origin:
__ Anglo/American
__ African American
__ Hispanic
__ Mexican
__ East Indian
__ Other _____

Sex
__ Male
X Female
__ Female Pregnancy

__ GINA (Genetic information Non-discrimination Act)

Religion:
__ Baptist
__ Catholic
__ Jewish
__ Muslim
__ Other _____

Color (Based only on skin color):
__ White
__ Black
__ Brown
__ Other _____

Disability:
__ Disabled
__ Regarded as Disabled
__ History of Disability
(Pregnancy is NOT a disability unless you are regarded as disabled)

Retaliation:
X I filed a complaint of discrimination / opposed unfair hiring discrimination
X I participated in an investigation of discrimination
DATE THIS occurred: 6/11/2015

Complainant Full Name:	**Complainant Representative:** *(If you are represented by an attorney, please have them submit a letter of representation):*
Luis Mario Davis	Darryl E. Scott, Attorney at Law
Address Line 1: 1510 Eldridge Parkway	**Address Line 1:** 3730 Kirby Drive
Address Line 2: Suite 110-144	**Address Line 2:** Suite 1300
City/State/Zip: Houston TX 77077	**City/State/Zip:** Houston, TX 77098
Home Phone #: N/A	**Phone #:** (713) 554-7224
Other Phone #: (832) 860-8815	**Fax #:** (281) 616-8249
Date Hired:	**Position held:**	Are you still employed with them: __ Yes __ No
Name of Employer *(The company name/ address MUST be complete/ correct or your complaint may be dismissed)* Fort Bend County	**HR Personnel Officer/EEO Officer/or Highest Ranking officer on work site:** Kent Edwards, Director of Human Resources
Address Line 1: 301 Jackson Street	**Address Line 1:** 4520 Reading Road
Address Line 2: 7th Floor	**Address Line 2:** Suite A
City/State/Zip: Richmond, TX 77469	**City/State/Zip:** Rosenberg, TX 77471
Phone #: (281) 342 3411	**Phone #:** (281) 341-8600
More than 15 employees: X Yes __ No	**Fax #:** (281) 341-8615

Completed forms, attachments, or amendments to the intake questionnaire received by the Texas Workforce Commission Civil Rights Division (TWCCRD) will be sent to Texas Workforce Commission Civil Rights Division, P.O. Box 13474, Austin, Texas 78711-3474. The TWCCRD will not accept complaints submitted by e-mail or fax. Complaints may be submitted in person at the TWCCRD's office at 101 East 15th Street, Room 144-T, Austin, Texas 78778-0001.

Employment Harms or Actions (*Mark all that apply.*)

___ Severance Pay (B5)	___ Hiring (H2)	___ Suspension (S5)
___ Demotion (D1)	___ Layoff (L1)	___ Terms & Conditions (T2)
✓ Discharge (D2)	___ Promotion (P3)	___ Training (T4)
X Discipline (D3)	✓ Reasonable Accommodation (R6)	X Wages (W1)
X Harassment (H1)	X Sexual Harassment (S4)	X Other: Hostile Environ., Retaliation

The following questions are regarding the actions of discrimination taken against you *(Each incident must be within 300 days (approximately 6 months) of the time you submit your complaint to the EEOC).*

DATE OF FIRST HARM: 09-21-2010

Explain what happened *(Provide full names and position titles of all involved in this action)*:

Kenneth Ford, Technical Services Mgr, for Fort Bend County IT Department, issued a written warning to me for failure to complete assigned duties. No prior verbal warning was received, which is the department's policy. This warning had no merit.

Reason Employer gave you for their actions:

Not following an assigned task that was supposed to be carried out the prior week

Provide the full names of other employees treated *MORE FAIRLY* than you. *(If you filed under race give their race, if under sex, give their sex, etc.)*:

The task was assigned to Bill Penman, Network Engineer, who was never reprimanded, disciplined or given warning.

DATE OF SECOND HARM: 12-02-2010

Explain what happened *(Provide full names and position titles of all involved in this action)*:

Verbal warnings about my lunch break

Reason Employer gave you for their actions:

Warning to me about taking extended lunch breaks

Provide the full names of other employees treated *MORE FAIRLY* than you. *(If you filed under race give their race, if under sex, give their sex, etc.)*:

Fort Bend County Managers and Supervisors

DATE OF THIRD HARM: 12-10-2010

Explain what happened *(Provide full names and position titles of all involved in this action)*:

My time card submitted to Payroll by my manager coded with Leave Non FMLA - No Pay

Reason Employer gave you for their actions:

None given

Provide the full names of other employees treated *MORE FAIRLY* than you. *(If you filed under race give their race, if under sex, give their sex, etc.)*:

Fort Bend County Managers and Supervisors

SIGNATURE

I am aware that this charge will also be filed with both the EEOC and State or local Agency. I will accept my responsibility to advise the agency if I change my address, phone number, or employment status, and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

Signature of Complainant: Lois M Davis **Date:** 02-15-11 (Month, Day, Year)

TEXAS WORKFORCE COMMISSION
CIVIL RIGHTS DIVISION

FEBRUARY 25, 2011
PERFECTED COMPLAINT LETTER

LOIS DAVIS
C/O DARRYL SCOTT, ATTORNEY
3730 KIRBY DR., SUITE 1200
HOUSTON, TX 77098

Dear MS. DAVIS:

REFERENCE: **LOIS M. DAVIS V. FORT BEND COUNTY**

This is to advise you that your complaint of employment discrimination, dated FEBRUARY 16, 2011, has been accepted for investigation by the Texas Workforce Commission Civil Rights Division (CRD). I have been assigned the responsibility for all matters concerning this complaint. **If you have filed this same charge with the US Equal Employment Opportunity Commission, please contact me immediately**.

Enclosed are two Charge of Discrimination forms. If there are any errors or questions, please contact me before making any mark(s) on the forms. If there are no errors in what is written, take the forms to a notary public, sign and date one form in black ink in the places indicated by an "X". Have the notary public notarize the form and return the notarized form to the CRD by mail or FAX within 10 days of receipt. Please keep the copy for your own

information and record. Failure to **return the signed and notarized charge by MARCH 10, 2011**, will result in dismissal of your complaint.

If your complaint is based on disability, the CRD will need the following: Diagnosis and prognosis of your disability; State the major life activity that is impaired and describe the impairment; State whether the disability predictable or unpredictable; State whether the disability a permanent or temporary condition; State whether you can perform the essential functions of your position with or without a workplace accommodation; If an accommodation is required, state what type of workplace accommodation would be necessary; State whether the disability is controlled by medication; If so, describe the medication and the effects of the medication.

All documentation you receive as part of the CRD's assessment and investigative process related to your complaint should remain confidential and should not be shared with any member of the public with the exception of your attorney or other person you have identified as your authorized representative. Your authorized representative will need to provide the CRD with a statement of representation, including name, address, and telephone number. Upon receipt of a letter of representation, all further communication from the CRD related to the above referenced complaint will be forwarded to your representative.

Please contact me toll free at 1 (888) 452-4778 ext. 34851 or my direct line at (512) 463-4851, if you have

any questions about the Charge of Discrimination forms.

Sincerely,

/s/ Bettye Taylor

Bettye Taylor, Intake Investigator

Attachment: Charge of Discrimination Forms (2)

U.S. DEPARTMENT OF JUSTICE
CIVIL RIGHTS DIVISION

NOTICE OF RIGHT TO SUE WITHIN 90 DAYS

December 15, 2011

CERTIFIED MAIL
2011 4623

Lois Davis
c/o Darryl E. Scott, Esq.
Law Office of Darryl E. Scott
Attorney at Law
3730 Kirby Dr., Suite 1200
Houston, TX 77098

Re: EEOC Charge Against Fort Bend County
No. 31C201100556

Dear Ms. Davis:

Because you filed the above charge with the Equal Employment Opportunity Commission, and more than 180 days have elapsed since the date the Commission assumed jurisdiction over the charge, and no suit based thereon has been filed by this Department, and because you through your attorney have specifically requested this Notice, you are hereby notified that you have the right to institute a civil action under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, et seq., against the above-named respondent.

If you choose to commence a civil action, such suit must be filed in the appropriate Court within 90 days of your receipt of this Notice.

The investigative file pertaining to your case is located in the EEOC San Antonio District Office, San Antonio, TX.

This Notice should not be taken to mean that the Department of Justice has made a judgment as to whether or not your case is meritorious.

Sincerely,

Thomas E. Perez
Assistant Attorney General
Civil Rights Division

by

/s/ Karen L. Ferguson
Karen L. Ferguson
Supervisory Civil Rights Analyst
Employment Litigation Section

cc: San Antonio District Office, EEOC
Fort Bend County

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CIVIL ACTION 4:12-CV-131

JURY TRIAL DEMANDED

LOIS M. DAVIS,

v.

FORT BEND COUNTY

EXHIBIT H

TO

DECLARATION OF LOIS M. DAVIS

U.S. DEPARTMENT OF JUSTICE
CIVIL RIGHTS DIVISION

NOTICE OF RIGHT TO SUE WITHIN 90 DAYS

December 15, 2011

CERTIFIED MAIL
2011 4623

Lois Davis
c/o Darryl E. Scott, Esq.
Law Office of Darryl E. Scott
Attorney at Law
3730 Kirby Dr., Suite 1200
Houston, TX 77098

Re: EEOC Charge Against Fort Bend County
No. 31C201100556

Dear Ms. Davis:

Because you filed the above charge with the Equal Employment Opportunity Commission, and more than 180 days have elapsed since the date the Commission assumed jurisdiction over the charge, and no suit based thereon has been filed by this Department, and because you through your attorney have specifically requested this Notice, you are hereby notified that you have the right to institute a civil action under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, et seq., against the above-named respondent.

If you choose to commence a civil action, such suit must be filed in the appropriate Court within 90 days of your receipt of this Notice.

The investigative file pertaining to your case is located in the EEOC San Antonio District Office, San Antonio, TX.

This Notice should not be taken to mean that the Department of Justice has made a judgment as to whether or not your case is meritorious.

Sincerely,

Thomas E. Perez
Assistant Attorney General
Civil Rights Division

by

/s/ Karen L. Ferguson
Karen L. Ferguson
Supervisory Civil Rights Analyst
Employment Litigation Section

cc: San Antonio District Office, EEOC
Fort Bend County